

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

1 Environmental Planning and Assessment Act 1979

1.1 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 some of the relevant EPIs, including SEPP (State and Regional Development) 2011.</p> <p>The proposal is not considered to be consistent with some of the relevant EPIs, including 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. Refer to further discussion below.</p>	<p>Satisfactory.</p> <p>Not satisfactory</p>
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	<p>In May 2017 (prior to the lodgement of this application in December 2017) the Department of Planning, Industry and Environment (DPIE) exhibited a draft amendment to the Growth Centres SEPP 2006, referred to as the 'North West Draft Exhibition Package.' This exhibition coincided 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 DPIE 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>Following exhibition in mid-2017 and the receipt of many objections, DPIE is still considering this matter and no final decision has been made. The timing of adoption is uncertain at this stage, as is the content of any amendments. There is no guarantee the exhibited controls will be adopted and made law.</p> <p>This site is within the Marsden Park Precinct and the density band demonstrated in the Exhibition Package is 25 to 35 dwellings per hectare, which equates to a maximum of 39 dwellings on this site. The proposal is for 132 dwellings, being an additional 93 dwellings above that anticipated in the Exhibition Package. Although the proposal is inconsistent with the maximum dwelling density as 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</p>	<p>No, but the amendment is neither certain nor imminent.</p>

Heads of Consideration	Comment	Complies
	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.	
(iii) Any development control plan (DCP)	<p>The BCC Growth Centre Precincts DCP 2018 applies to the site. The proposed development comprises multiple departures from the numerical controls established under the DCP. Refer to further discussion at Section 9 below.</p> <p>Parts J and G of Blacktown DCP 2015 also apply to the site with regard to water sensitive urban design measures and waste management. The proposed development fails to satisfy the requirements established under the DCP. Refer to further discussion at Section 10 below.</p>	No
(iii a) Any Planning Agreement	N/A	N/A
(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 allow for a proper assessment of the application, including the submission of requested information including planning, architectural design, waste and engineering matters, items raised by the Police and a BASIX Certificate that reflects the current proposal.</p> <p>The DA is compliant with Clause 92 with regard to demolition.</p>	No
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 development will result in negative likely impacts with regard to traffic, access, parking, streetscape and design, bulk and scale, overshadowing, noise, privacy, waste management, tree and vegetation preservation and stormwater management.</p> <p>An adequate site analysis has not been 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 have unfavourable social, economic and environmental impacts.</p>	No, the development is considered to result in unfavourable likely impacts.
c. The suitability of the site for the development	<p>The site is zoned R3 Medium Density Residential with a 14 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 adequate temporary or permanent access for vehicles, pedestrians and to the buildings generally.</p> <p>The site is serviced by bus routes only. The site is not well serviced by commercial and retail facilities, nor rail.</p> <p>The proposal fails to adhere to the relevant development controls and is a poor development outcome for the site.</p>	No, the site is not suitable for the development in its current form.

Heads of Consideration	Comment	Complies
d. Any submissions made in accordance with this Act, or the regulations	The application was exhibited for comment for a period of 14 days and no submissions were received from the public.	Not applicable.
e. The public interest	<p>When compared to providing a development that strictly complies with the height of building and minimum lot size development standards, this application fails to provide communal open space areas that compliment the streetscape presentation and are inviting areas for the enjoyment and use of residents. The proposed building generates excessive bulk and impedes on the redevelopment of surrounding sites.</p> <p>The proposal does not offer a public benefit because it fails to provide a positive streetscape outcome which is consistent with the desired future character of the Precinct.</p> <p>The proposal also fails to provide suitable waste collection arrangements. The proposal results in poor development outcomes.</p> <p>The proposal requires a substantial redesign which the applicant has failed to deliver despite repeated requests from Council.</p>	No, the proposal is not in the public interest and is not supported in its current form.

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

Summary comment	Complies
<p>The Sydney Central City Planning Panel (SCCPP) 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 this DA has a CIV of \$37.9 million, Council is responsible for the assessment of the DA and determination of the application is to be made by the Panel.</p>	Yes

3 State Environmental Planning Policy (Infrastructure) 2007

Summary comment	Complies
<p>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.</p> <p>The development was referred to RMS, who found the development acceptable, provided the proposed dwelling density and road layout design is consistent with the Marsden Park Precinct Plan.</p> <p>As discussed in Section 7 of the Assessment report, the proposal is not consistent with the adopted road layout for the area.</p>	No

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

Summary comment	Complies
<p>The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP, including BASIX certification.</p> <p>As lodged, the application was supported by a BASIX Certificate. In response to our concerns raised, the applicant submitted amended plans in September 2018 that were not accompanied by a BASIX Certificate.</p> <p>The proposal fails to demonstrate satisfactory levels of sustainability, waste management and efficient use of energy and water resources.</p>	No

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>The application is accompanied by a Preliminary Site Investigation report, prepared by Aargus and dated 21 September 2016. The findings of the assessment indicated the following areas of potential environmental concern:</p> <ul style="list-style-type: none"> • Imported fill in the swimming pool and under the house and sheds. • Market gardening activities along the eastern boundary. • Degradation of current and former metal features. • Leakages from the parking of cars. • Abandoned asbestos sheets. <p>The report also states that "the contaminants that may be present in some of these areas are considered to be of low to moderate significance in terms of risk to the human and environmental receptors identified. Therefore, a Detailed Site Investigation is required to confirm the presence and extent of contamination in order to determine the suitability of the site for the proposed development application and to address the data gaps identified. It is also recommended that a hazardous material assessment be undertaken followed by an asbestos clearance certificate."</p> <p>The report has been reviewed by our Environmental Health Officer who advised that the site can be made suitable for residential use.</p> <p>However, this application is not accompanied by a Detailed Site Investigation. The applicant has not demonstrated the presence or extent of the contamination and it is insufficient to deal with this by conditions of consent as this does not give certainty that the site can be made suitable for residential use without the Detailed Site Investigation being undertaken first.</p>	No. The application fails to satisfy clause 7 of SEPP 55 as it does not confirm that the site can be made suitable for residential use.

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

Summary comment
<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 30 of SEPP 65 requires a consent authority to take into consideration:</p>

Summary comment

- design quality of the residential flat development when evaluated in accordance with the design quality principles
- the Apartment Design Guide (ADG).

The tables below provide comments on our assessment of the 9 design quality principles and details where the numerical guidelines of the ADG are not fully complied with.

6.1 Design quality principles

Principle	Control	Comment
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6.1.1 Design quality principles

The development does not satisfy the 9 design quality principles.

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 in a greenfield context, within the Marsden Park Precinct of the North West Growth Centre. The surrounding locality proposes increased residential density and its associated new road network.</p> <p>The proposed road access and buildings have not been designed in a manner that is compatible with the social, economic and environmental identity and desired future character of this Precinct.</p> <p>The layout and design of the proposal does not respond to the context of the site and surrounds and is unsatisfactory with regard to the development standards and controls.</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 application fails to demonstrate that the built form, height and scale of the proposed development are suitable when evaluated against the site's surrounding context, topography and environmental characteristics. The built form and scale adversely impacts on the ability of adjoining sites to redevelop in a compliant manner.</p> <p>The design results in a poor streetscape outcome with excessive fencing in the internal courtyard areas and the street setback areas, façade features that rely on orange, red and yellow coloured concrete painted panel balcony frames only, and rooftop structures that are excessive in size.</p> <p>The proposed variations to the maximum permitted height of buildings control are not supported, as considered at attachment 8.</p> <p>The building façade design, combined with a range of different materials and aesthetics, have been applied to buildings across the site to provide further visual interest and to break up the</p>

Principle	Control	Comment
		bulk and scale of the built form.
3. Density	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>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.</p>	<p>The proposal is for 132 apartments, being 121 dwellings per hectare.</p> <p>The proposed density and resulting population increase is consistent with that currently envisaged by the gazetted Growth Centre Precinct controls for this site. However, the proposal fails to achieve a suitable level of amenity for the future residents in their apartments and common open space areas. Therefore, the resulting density is considered to be excessive for this site and its context.</p> <p>Bus services are available in the general vicinity along Richmond Road.</p>
4. Sustainability	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>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.</p>	<p>As lodged, the application was supported by a BASIX Certificate. In response to our concerns, the applicant submitted amended plans in September 2018 that were not accompanied by a BASIX Certificate.</p> <p>The proposal fails to demonstrate satisfactory levels of sustainability, waste management and efficient use of energy and water resources.</p>
5. Landscape	<p>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.</p> <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>A landscape plan has been submitted with the proposal that incorporates a variety of planting. Deep soil zones have been provided throughout the development, some of which are co-located with parts of the internal courtyard communal open space areas.</p> <p>The design fails to provide a variety of different environments for active and passive recreation, relaxation and entertaining. The ground level internal courtyard areas rely on 1.8 m high fencing to provide privacy between this communal open space area and the adjoining courtyards.</p> <p>The proposal provides narrow 2 m wide landscape strips along the majority of the perimeter of each block, with the remainder of the setback area being hardstand courtyard areas or turf. This planting is insufficient.</p> <p>The proposal also fails to retain any existing trees to assist with contributing to the establishment of a mature tree canopy.</p>

Principle	Control	Comment
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 well being.</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 fails to provide an acceptable level of amenity as it lacks an appropriate spatial arrangement and layout.</p> <p>The proposal fails to demonstrate a suitable level of internal amenity through appropriate room dimensions and shapes, outlook, visual and acoustic privacy, storage and indoor and outdoor space.</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>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 proposal provides bedroom windows that overlook the internal courtyard and provides some natural surveillance. Public and private spaces are clearly defined. However, this delineation is provided through the use of 1.8 m high fencing in some places, which is not a suitable streetscape outcome.</p> <p>Insufficient safety measures are provided, including mailboxes at the street frontage, no CCTV, and a temporary access road that borders the courtyards of 5 apartments in Block B.</p> <p>The proposal provides 1.8 m high fencing that is likely to obstruct casual surveillance from ground level to the public domain.</p> <p>The proposal provides its primary communal open space on the rooftop and does not comprise any casual surveillance over the public domain.</p>
8. Housing diversity and social interaction	<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>The overall proposal provides housing diversity with an appropriate mix of studio and 1 bedroom (36%), 2 bedroom (55%) and 3 bedroom (9%) apartments.</p> <p>The proposal consists of a mix of dwellings that are responsive to anticipated market and demographic demands.</p> <p>The proposal provides additional housing choice that is serviced by public transport in the form of bus routes only.</p> <p>The design fails to provide a variety of different environments for active and passive recreation, relaxation and entertaining to provide opportunities for social interaction among residents.</p>
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,</p>	<p>The proposed development is considered to provide limited building elements, textures, materials, finishes and colours.</p> <p>The design and colours are the same for</p>

Principle	Control	Comment
	colours and textures. 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.	all 3 buildings, fail to create a sense of individuality for each building and fail to provide character in line with the desired future character of the Precinct. The design, lack of feature landscaping and excessive fencing fails to create a desirable streetscape.

6.2 Compliance with Apartment Design Guide (ADG)

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

It is compliant with all other matters under the ADG.

Controls

2F Building Separation	Up to 4 storeys/12 m: 12 m between habitable rooms/balconies	For Block A: Achieved. For Block B: Not achieved to the west (shortfall of 450 mm). For Block C: Not achieved to the east, south and west (shortfall of 1 m).	Yes No No
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Siting the Development

3C Public domain interface	Balconies and windows to overlook the public domain.	1.8 m high fencing between some ground level apartments and the boundary obstructs overlooking the public domain.	No
	Front fences to be visually permeable with maximum 1 m height, and limited length.	1.8 m high fencing.	No
	Raised terraces to be softened by landscaping.	Raised terraces have limited landscape screening for a width of 1.5 m to 2 m only, which is insufficient.	No
	Substations, pump rooms, garbage storage rooms and other service rooms should be located in the basement car parks or out of view.	Substations are in the street setback area. However this is satisfactory as it is likely to be required by the energy provider. For Block C, the garbage storage room is in the street setback area.	No No
3F Visual privacy	Direct lines of sight should be avoided for windows and balconies across corners.	For Block A, the 3 centrally located studios on Levels 1, 2 and 3 are affected by direct lines of sight to and from other apartments which overlook the internal courtyard. This could be managed by visual privacy screens. However, this is not indicated on	No

ADG requirement		Proposal	Compliance
	Appropriate design solutions should be in place to separate POS and habitable windows to common areas.	the plans. For Blocks A and B, some windows on the ground level apartments border the internal communal open space area.	No
3J Bicycle and car parking	At least 1 loading dock.	For Block C, no on-site loading facilities are provided.	No
	Conveniently located and sufficient numbers of bicycle and motorbike spaces.	No motorbike parking spaces for Block C.	No

Designing the building

4D Apartment size and layout	Bedroom sizes (excluding wardrobe space): Master - 10 m ² Other - 9 m ² Minimum dimensions: 3 m	Not achieved for all bedrooms.	No
		Not achieved for all bedrooms.	No
4E Private open space and balconies	Studio > 4 m ²	Yes	Yes
	1 bed > 8 m ² and 2 m depth	Yes	Yes
	2 bed >10 m ² and 2 m depth	Not achieved for all balconies, for example Unit B-106 and Unit C-G01.	No
	3 bed >12 m ² and 2.4 m depth. Ground level/podium apartments > 15 m ² and 3 m depth.	Not achieved for all ground level apartments, for example Units A-G04, B-G09 and all 6 ground level apartments in Block C.	No
	A/C units should be located on roofs, in basements, or fully integrated into the building design.	This is not detailed on the plans. However, is capable of being conditioned to ensure an appropriate building design.	No, but can comply subject to conditions.
4G Storage	Studio > 4 m ³ 1 bed > 6 m ³ 2 bed > 8 m ³ 3 bed >10 m ³	Some apartments do not have any storage inside the apartment, for example Unit A-G08, Unit B-116 and Unit C-G03.	No
	Min 50% within the apartment.	Storage is provided at the basement levels. However, for Block C storage spaces are not capable of being accessed due to other cars.	No

ADG requirement		Proposal	Compliance
4H Acoustic privacy	Window and door openings orientated away from noise sources.	Not achieved. Windows and balconies are located along each of the basement ramps. Bedrooms of some apartments also adjoin pathways associated with the ground level communal open space area, for example Units A-G01 and B-G05.	No
	Noise sources from garage doors, driveways, service areas, active communal open spaces and circulation areas to be 3 m from bedrooms.	Not achieved. Bedrooms in Blocks A and B adjoin the driveways. The main entry pathway to Block B is directly next to bedrooms. The 2 entry pathways to Block C are in between bedrooms.	No
Configuration			
4L Ground floor apartments	Maximise street frontage activity.	This is not achieved due to 1.8 m high fences at the perimeter of ground level courtyards.	No
	Ground floor apartments to deliver amenity and safety for residents.	The 5 ground floor apartments on the western side of Block B border the temporary access road which services Block C to the rear (south) of the site, and possible surrounding sites until such time as the surrounding road network is in place. This is a poor amenity and safety outcome for these apartments.	No
4M Facades	Front building facades are to provide visual interest whilst respecting the character of the local area. Building services are to be integrated into the overall façade. Provide design solutions which consider scale and proportion to the streetscape and human scale.	The design of the buildings comprises limited variation of building elements, and a lack of definition of the base, middle and top of the buildings. The excessive rooftop structures exacerbate the scale and proportion to the streetscape and human scale.	No
4N Roof design	Roof treatments are to be integrated into the building design and positively respond to the street.	The roof treatments to the rooftop structures are not integrated into the building design and are visually intrusive.	No
4P Planting on structures	Provide sufficient soil volume, depth and area. Provide suitable irrigation and drainage systems and maintenance.	Not detailed on the plans. However, capable of being managed by conditions.	No, but can comply subject to conditions.

ADG requirement		Proposal	Compliance
4Q Universal design	20% adaptable housing.	The Statement of Environmental Effects states that at least 20% of apartments are adaptable. This is supported by an Accessibility and BCA Compliance Report prepared by JS Architects dated December 2017. However, the adaptable apartments are not identified on the plans.	No
	Flexible design solutions to accommodate the changing needs of occupants.	Not demonstrated in the proposal. However, all levels are capable of being accessed by lifts.	Yes

Performance

4U Energy efficiency	Heating and cooling infrastructure are to be centrally located (e.g. basement).	Not indicated on the plans.	No
4V Water management and conservation	Rainwater collection and reuse.	None.	No
	Water sensitive urban design measures.	Temporary or permanent water sensitive urban design measures are not proposed.	No
	Detention tanks should be located under paved areas, driveways or in basement car parks.	Above ground on-site stormwater detention tanks are provided for each block.	No
4W Waste management	Waste storage should be discreetly located away from the front of the development or in the basement.	For Block C, the waste storage and collection is located in the front street setback.	No
	Waste and recycling rooms are to be in convenient and accessible locations related to each vertical core.	For Block C, the waste and recycling room is located at the street frontage and is not in the vicinity of the 2 vertical cores.	No

7 Central City District Plan 2018

Summary comment	Complies
<p>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:</p> <p>Liveability</p> <ul style="list-style-type: none"> Improving housing choice Improving housing diversity and affordability. <p>However, the proposal fails to provide a well-considered design which contributes to creating great places. It also fails to contribute to providing suitable public roads and services to meet communities' changing needs.</p>	No

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

8.1 General development standards

Part 1 Preliminary

Section 2 Aims of the Policy	Complies
<ul style="list-style-type: none"> a) to co-ordinate the release of land for residential, employment and other urban development in the North West Growth Centre. b) to enable the Minister from time to time to designate land in growth centres as ready for release for development c) to provide for comprehensive planning for growth centres d) to enable the establishment of vibrant, sustainable and liveable neighbourhoods that provide for community well-being and high quality local amenity e) to provide controls for the sustainability of land in growth centres that has conservation value f) to provide for the orderly and economic provision of infrastructure in and to growth centres g) to provide development controls in order to protect the health of the waterways in growth centres h) to protect and enhance land with natural and cultural heritage value i) to provide land use and development controls that will contribute to the conservation of biodiversity. 	No. The proposal is not considered to be consistent with aims c, d and f.

Part 1 Preliminary

Controls within Appendix 12 – Blacktown Growth Centres Precinct Plan 2013 of the SEPP

1.2 Aims of Precinct Plan	<ul style="list-style-type: none"> (a) to rezone land to allow for development to occur in the manner envisaged by the growth centre structure plan and the indicative layout for the land to which this Precinct Plan applies (b) to deliver housing choice and affordability by accommodating a wide range of residential dwelling types that cater for housing diversity (c) to guide the bulk and scale of future development within the Precinct (d) to protect and enhance riparian corridors and areas of significant native vegetation by establishing development controls that prevent the clearing of existing native vegetation within the Marsden Park Precinct, the Riverstone East Precinct and the West Schofields (Townson Road) Precinct (e) to protect and enhance areas of local heritage significance by establishing development controls in order to maintain and respect the relationships between heritage sites and uses of adjacent sites (f) to rezone land to allow for retail and commercial uses to meet 	<p>No. The proposal is not considered to be consistent with aims (a) and (c).</p> <p>The proposal fails to provide appropriate road access consistent with the Indicative Layout Plan.</p> <p>The proposal is excessive with regard to bulk and scale.</p>
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Part 1 Preliminary

the needs of future residents of the Marsden Park Precinct and the Riverstone East Precinct and surrounding areas
(g) to identify a transport corridor within the Marsden Park Precinct and the Riverstone East Precinct.

Part 4 Principal development standards

Cl. 4.1 Minimum subdivision lot size	<p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure that the minimum size for lots is sufficient for the provision of usable areas for building and open space,</p> <p>(b) to facilitate and encourage a range of residential lot types, in particular, small lot housing,</p> <p>(c) to encourage the efficient use of land for residential purposes.</p>	<p>No. The proposal is not considered to be consistent with the objectives of the subdivision lot size development standard.</p>
Cl. 4.1AB Minimum lot sizes for residential development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential Minimum 2,000 m ²	<p>(1) The objectives of this clause are as follows:</p> <p>(a) to establish minimum lot sizes for residential development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential</p> <p>(b) to ensure that residential development in the Marsden Park Precinct, the Riverstone East Precinct and the West Schofields (Townson Road) Precinct results in the efficient use of land and contributes to the supply of new housing in the North West Growth Centre</p> <p>(c) to ensure that residential development has adequate usable areas for buildings and open space</p> <p>(d) to ensure that residential development in the Marsden Park Precinct, the Riverstone East Precinct and the West Schofields (Townson Road) Precinct is compatible with the character of the locality and with surrounding residential areas</p> <p>(e) to facilitate and encourage the provision of a range of residential lot types, in particular, small lot housing.</p> <p>The proposal is inconsistent with objectives (c) and (d).</p> <p>The proposal fails to provide an adequate lot size of 2,000 m² for Block C (1,911 m²) with sufficient usable areas for building and open space. The proposal fails to support the efficient use of land for residential purposes and causes the adjoining site to the south to also be burdened with an inadequate lot size.</p>	<p>No</p>
Cl. 4.3 Height of buildings Maximum 14 m	<p>The proposed development has a building height of up to 16.9 m to the rooftop structures.</p> <p>The maximum breach to the 14 m development standard is 2.9 m. All buildings exceed the maximum permitted height of buildings. The Applicant has submitted a request to vary this development standard under Clause 4.6 of the Growth Centres SEPP.</p> <p>The proposal does not provide a well-considered design and is not consistent with the desired future character of this Precinct nor compatible with the emerging scale of urban development in the locality. As discussed in attachment 8, the proposed height of buildings is not considered reasonable, nor well founded. It is recommended that the request be refused.</p>	<p>Not supported.</p> <p>The Applicant seeks to vary this development standard. Refer to section 7 of Assessment Report and attachments 7 and 8.</p>

Part 1 Preliminary

Cl. 4.6 Exceptions to development standards	The applicant has submitted a written Clause 4.6 request to justify that compliance with the height development standard is unreasonable and unnecessary in this instance, at attachment 7. Our assessment of the adequacy of the request is at attachment 8.	The Clause 4.6 request is not supported.
5.9 Preservation of trees or vegetation	<p>The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.</p> <p>There are 51 trees on the site which are identified as Shale Plains Woodland.</p> <p>In June 2018, the applicant was requested to submit an Arborist Report that identifies the existing trees that are in good condition with a long life expectancy. If these trees are found to be located within the street setback areas, the applicant is to retain the trees, where possible. The application does not adequately consider the retention of trees which is essential given the benefits of mature tree canopies for the character of the area and shading benefits. The applicant was also requested to retain some existing trees, and that are ideally co-located with the communal open space areas of the RFBs.</p> <p>This has not been addressed.</p>	No. The application fails to preserve the amenity of the area through the preservation of trees and other vegetation.
5.10 Heritage conservation	<p>The application is accompanied by an Aboriginal Due Diligence Assessment prepared by Comber Consultants and dated September 2016 which includes the recommendation that further archaeological research and testing is to be undertaken to determine the nature and extent of Aboriginal objects on the site, and should these be found an Archaeological Heritage Impact Permit (AHIP) is required to be obtained from the Office of Environment and Heritage.</p> <p>In June 2018, the applicant was requested to confirm the status of this further research, as an AHIP will be required to be obtained prior to works commencing, and prior to the issue of a Subdivision Certificate.</p> <p>This has not been addressed. However, this matter is capable of being conditioned on any consent issued.</p>	Yes, subject to conditions.

9 Blacktown City Council Growth Centre Precincts Development Control Plan 2018 (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 DCP.

9.1 Part 2.0 Precinct planning outcomes (from main body of DCP)

DCP requirement	Proposal	Complies
2.2 Indicative Layout Plan	DA is to be generally in accordance with the Indicative Layout Plan.	No

DCP requirement	Proposal	Complies
	Block A that is inconsistent with the Indicative Layout Plan. The remaining half-width of this road is not likely to be completed by the adjoining site to the west. The road network will be incomplete and development will not be undertaken in a coordinated manner.	

2.3 Subdivision site analysis

2.3.1 Flooding and water cycle management	DA is to manage the flow of stormwater and minimise the potential of flooding impacts on development.	The application fails to demonstrate that the flow of stormwater is appropriately managed in the form of providing temporary and permanent water quality urban design measures and providing drainage connections to Grange Avenue.	No
2.3.3 Aboriginal and European heritage	Are there any areas of Aboriginal heritage value within or adjoining the site, and is the site identified on the European cultural heritage sites figure? If so, a report is required from a qualified consultant.	The application is accompanied by an Aboriginal Due Diligence Assessment prepared by Comber Consultants and dated September 2016 that includes the recommendation that further archaeological research and testing is to be undertaken to determine the nature and extent of Aboriginal objects on the site, and should these be found an Archaeological Heritage Impact Permit (AHIP) is required to be obtained from the Office of Environment and Heritage. The Applicant was requested to confirm the status of this further research, as an AHIP will be required to be obtained prior to works commencing, and prior to the issue of a Subdivision Certificate. This has not been addressed. However, this matter is capable of being conditioned on any consent issued.	Yes, subject to conditions.
2.3.4 Native vegetation and ecology	Native trees/vegetation to be retained where possible. Is the site identified on the Riparian Protection Area figure. If so, native vegetation to be managed in accordance with Appendix B of the DCP. Does the site adjoin land zoned E2? A landscape plan is to be submitted	There are 51 trees on the site which are identified as Shale Plains Woodland. In June 2018, the applicant was requested to submit an Arborist Report which identifies the existing trees which are in good condition with a long life expectancy. If these trees are found to be located within the street setback areas, the applicant is to retain the trees,	No. The application fails to retain native trees and vegetation.

DCP requirement		Proposal	Complies
	with the DA. Trees to be selected from Appendix D of the DCP.	where possible. The application does not adequately consider the retention of trees which is essential given the benefits of mature tree canopies for the character of the area and shading benefits. The applicant was also requested to retain some existing trees, and which are ideally co-located with the communal open space areas of the RFBs. This has not been addressed.	
2.3.6 Site contamination	All subdivision DAs to be accompanied by a Stage 1 Preliminary Site Investigation. Where required, a Stage 2 investigation is to be carried out.	As discussed above, the application is accompanied by a Preliminary Site Investigation report, prepared by Aargus and dated 21 September 2016. The report concludes that a Detailed Site Investigation is required to confirm the presence and extent of contamination in order to determine the suitability of the site for the proposed development and to address the data gaps identified. It is also recommended that a hazardous material assessment be undertaken followed by an asbestos clearance certificate. However, as the proposal is not accompanied by a Detailed Site Investigation it is considered that there is insufficient evidence to ascertain that the site can be made suitable for residential use as required by Clause 7 of SEPP 55 – Remediation of Land.	No. The application fails to satisfy Clause 7 of SEPP 55 as it does not confirm that the site can be made suitable for residential use.

9.2 Part 3.0 – Neighbourhood and Subdivision Design (from main body of DCP)

DCP requirement		Proposal	Complies
3.1 Residential Density and Subdivision			
3.1.2 Block and lot layout			
Subdivision layout is to create a legible and permeable street hierarchy that responds to the natural site topography, the location of existing significant trees and site features, place making opportunities and solar design principles.		The proposed subdivision layout provides a temporary access road which is inadequate in width and legibility. The proposal does not cater for the retention of existing trees, a suitable urban design approach with place making opportunities, and solar design principles for the sites to the south.	No
Pedestrian connectivity is to be maximised within		The proposal fails to provide	No

DCP requirement	Proposal	Complies
and between each residential neighbourhood with a particular focus on pedestrian routes connecting to public open space, bus stops and railway stations, educational establishments and community / recreation facilities.	pedestrian connectivity from the rear of the site to Grange Avenue due to pathways not being provided along the temporary road along Block B, and not providing the surrounding road network.	
Minimum lot size of 2,000 m ² for RFB developments.	The proposal fails to provide an adequate lot size of at least 2,000 m ² for Block C (1,911 m ² is proposed) with sufficient usable areas for building and open space. The proposal fails to support the efficient use of land for residential purposes and constrains the compliant redevelopment of the adjoining site to the south.	No
A person may not amalgamate 2 or more adjoining allotments after principal subdivision to create a larger lot that achieves the minimum lot size required for residential flat buildings.	The proposed Block C lot is not permitted to be created as a developable lot. Therefore, Block C is required to be created as a 'residue lot' and amalgamated with the remainder of the 'street block' which also comprises the adjoining sites to the east, south and/or west. Refer to the proposed Subdivision Plan at attachment 5.	No

3.4 Movement Network

3.4.1 Street layout and design

The design of streets is to be consistent with the relevant typical designs in Figure 3-10 to Figure 3-15 and Council's <i>Engineering Guide for Development</i> .	The 4.5 m temporary access road is inadequate in width and does not satisfy Council's <i>Engineering Guide for Development</i> (requiring a width of 11 m).	No
The typical designs in Figure 3-10 to Figure 3-15 are based on minimum dimensions and the design of streets may need to be modified to incorporate water sensitive urban design measures (WSUD) and to ensure appropriate site drainage, in accordance with Council's WSUD Development Control Plan.	The proposed road designs fail to provide WSUD measures.	No
Alternative street designs for local streets and access ways may be permitted on a case by case basis if they preserve the functional objectives and requirements of the design standards.	The proposed temporary access road along Block B is inadequate in width and fails to preserve the functional objectives and requirements of the design standards.	No
Roads in the relevant Precinct are to be constructed in accordance with the hierarchy shown on the 'Precinct road hierarchy' figure in the relevant Precinct Schedule.	The proposal is inconsistent with the Precinct road hierarchy as it provides an additional local road along the western side of Block A	No

DCP requirement	Proposal	Complies
	and a temporary road along the western side of Block B.	
The locations and alignments of all roads are to be generally in accordance with the locations shown on the 'Precinct road hierarchy' figure in the relevant Precinct Schedule.	The proposal is inconsistent with the Precinct road hierarchy because it provides an additional local road along the western side of Block A and a temporary road along the western side of Block B.	No
Where any variation to the residential street network indicated at the 'Precinct Road Hierarchy' figure, is proposed, the alternative street network is to be designed to:		
<ul style="list-style-type: none"> • create a permeable network that is based on a modified grid system, • encourage walking and cycling and minimise travel distances, • maximise connectivity between residential areas and community facilities, open space and centres, 	The proposal fails to provide connectivity in the form of pedestrian and cycle access from Block C, along the western boundary to the new access road between Blocks A and B.	No
<ul style="list-style-type: none"> • take account of topography and site drainage, and accommodate significant vegetation, 	The proposal fails to take account site drainage and the retention of suitable existing trees.	No
<ul style="list-style-type: none"> • optimise solar access opportunities for dwellings, 	The proposal fails to optimise solar access opportunities for the sites to the south.	No
<ul style="list-style-type: none"> • maximise the effectiveness of water sensitive urban design measures (WSUD), and 	The proposal fails to provide temporary or permanent WSUD measures.	No
<ul style="list-style-type: none"> • minimise the use of culs-de-sac. However, if required, they are to be designed in accordance with Council's Engineering Guidelines. 	The proposal provides temporary culs-de-sac at the eastern side of the 2 new east-west roads until such time as the surrounding road network to the east is in place. The temporary turning heads, or culs-de-sac, are not appropriate design solutions which obstruct access to the basement ramps for each block.	No
Variation to the residential street network will only be approved by Council where the applicant can demonstrate to Council's satisfaction that the proposal:		
<ul style="list-style-type: none"> • will not detrimentally impact on access to adjoining properties 	The proposed 4.5 m temporary access road along the western side of Block B forces the adjoining site to the west, 219 Grange Avenue, to construct the remaining portion of the 11 m wide road (being a width of 6.5 m). The adjoining site is not currently proposing this arrangement in DA-18-01300 for	No

DCP requirement	Proposal	Complies
<ul style="list-style-type: none"> provides for the management of stormwater to drain to Council's trunk drainage network, without negative impacts on other properties will not impede the orderly development of adjoining properties in accordance with the relevant Precinct Plan and this Development Control Plan 	<p>the subdivision of their site.</p> <p>The proposal fails to provide temporary or permanent WSUD measures or stormwater connection to Grange Avenue.</p> <p>The proposal impedes the potential for the adjoining site to the west by imposing a 6.5 m wide temporary access road along their shared boundary in the vicinity of Block B.</p>	<p>No</p> <p>No</p>
For changes to the proposed road system which Council considers minor, Council will write to affected property owners and consider any comments of those persons before determining the application.	<p>We do not consider this road pattern change to be minor.</p> <p>The application was referred to surrounding property owners and no objection was received.</p>	Not satisfactory
Except where otherwise provided for in this DCP, all streets and roundabouts are to be designed and constructed in accordance with the minimum requirements set out in Council's <i>Engineering Guide for Development</i> .	The 4.5 m wide temporary access road is inadequate in width and does not satisfy Council's <i>Engineering Guide for Development</i> (requiring a width of 11 m).	No
Where necessary to ensure that access to residential properties is provided in the early stages of development, Council may consent to the construction and operation of temporary access roads.	The 4.5 m wide temporary access road is inadequate in width and does not satisfy Council's <i>Engineering Guide for Development</i> (requiring a width of 11 m).	No

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

9.3.1 Controls for all residential development

DCP requirement	Proposal	Complies
Site Responsive Design (Section 4.1)		
4.1.2 Cut and fill 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.	The Cut and Fill Plan proposes fill in Block C of 6 m to 7 m. This appears to be on this plan.	No. Cut and fill and associated retaining structures are not clearly reflected on the plans.

DCP requirement		Proposal	Complies
4.1.3 Sustainable building design	Indigenous species to make up more than 50% of plant mix on landscape plan. The majority of plant species to be selected from Appendix D.	Only about 30% of species are indigenous and listed in Appendix D.	No
	Outdoor clothes lines and drying areas required.	Not provided.	No

9.3.2 Specific residential flat building controls

DCP requirement	Proposal	Complies
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Key controls for residential flat buildings (Table 4-10)

Landscaped area	Minimum 30% of site area	Figure not provided.	No
Communal open space	15% of site area	At least 15% provided for all blocks.	Yes
Front setback	Minimum 6 m Balconies and other articulation may encroach into setback to a maximum of 4.5 m from the boundary for the first 3 storeys, and for a maximum of 50% of the façade length.	For Block A, the ground level courtyards have a 1.5 m to 2 m setback. The 4 th storey encroaches into the 6 m setback by 1.5 m.	No
		For Block B, the ground level courtyards have a 1.5 m setback. The 4 th storey encroaches into the 6 m setback by 1.5 m.	No
		For Block C, the 6 m setback is achieved.	Yes
Corner lots secondary setback	Minimum 6 m	For Block A, the addition of a new half road along the western boundary creates a corner lot. The 6 m setback is not achieved to the west (shortfall of 450 mm) and the south (shortfall of 1.5 m).	No
Side setback	Above 3 storeys: minimum 6 m	For Block A, the side setback to the east is achieved. For Block B, the 6 m setback is not achieved to the west (shortfall 450 mm) and the south (shortfall 1.5 m). When measured from the temporary access road, the setback to the west is only 200 mm. For Block C, the 6 m setback is not achieved to the east and west (shortfall 1 m).	No
Rear setback	Minimum 6 m	Blocks A and B are not considered to have rear boundaries as they have a street frontage to the south.	No

DCP requirement		Proposal	Complies
		For Block C, the 6 m setback is not achieved to the south (shortfall 1 m).	
Habitable room/ balcony separation	Distance for buildings 3 storeys and above is a minimum of 12 m.	For Block A, this is achieved, with the exception of 1 ground level courtyard which is only 2 m from the eastern boundary. For Block B, there is a shortfall of 450 mm to the west and 1 ground level courtyard is only 2 m from the eastern boundary. For Block C, there is a shortfall of 1 m to the east, south and west.	No No No
Bicycle parking	1 space per 3 dwellings.	For Block B Bicycle spaces Required = 21 Provided = 18	No. However, the Traffic Report recommends that additional bicycle parking can be provided.

Additional controls for certain dwelling types (section 4.3)

(Sub-section 4.3.5 Controls for residential flat buildings)

Access	Must not adversely impact upon the amenity (i.e. overshadowing, privacy or visual impact) of existing or future adjoining residential development.	The applicant has not demonstrated that the development does not adversely impact on the future redevelopment of the adjoining sites which are also capable of redevelopment for RFBs.	No
SEPP 65	All RFBs are to be consistent with the guidelines and principles outlined in SEPP No. 65.	Refer above.	No
Adaptable housing	Minimum 10% of dwellings (where 10 or more proposed). Designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995). Preferably on ground floor or access via a lift, including access to basement. DA to be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995). Car parking and garages to comply with the requirements of AS for disabled parking spaces.	The Statement of Environmental Effects states that at least 10% of apartments are adaptable. This is supported by an Accessibility and BCA Compliance Report prepared by JS Architects dated December 2017. However, the adaptable apartments are not identified on the plans.	Not clear on the plans. However, capable of being conditioned to ensure compliance.

DCP requirement	Proposal	Complies
Note: On 18 June 2018, the following controls were introduced to the main body of the Growth Centres DCP, after the lodgement of this DA.		
Deep soil zone in the side and rear setbacks	The first 3 m of the side and rear setbacks must be a deep soil zone. For Block A, this is not achieved along the side (eastern) setback (2 m). For Block B, this is not achieved along the side setbacks (2 m and 2.35 m). For Block C, this is not achieved along the side setbacks (nil and 850 mm) and rear setbacks (from 2.3 m to 6 m).	No. However this control was not in force at the date of lodgement of the DA.
Structures clear of setback areas	Basements and basement parking areas are not permitted in the setback. Vehicle access ramps running parallel to the boundary must be setback 3 m from side and rear boundaries. Basement areas and vehicle access ramps are located in the side setbacks.	No. However this control was not in force at the date of lodgement of the DA.
Planting for ground level common open space	Ground level common open space must include deep soil planting. Large areas of consolidated planting are preferred over narrow perimeter planting. The ground level common open space areas contain some deep soil planting for Blocks A and B at the entry to the internal courtyard areas. The majority of the communal open space area is paved with narrow perimeter planting.	No. However this control was not in force at the date of lodgement of the DA.
Location of common open space	Common open space (COS) above ground level must not exceed a maximum of: <ul style="list-style-type: none"> • 30% on podium, balcony or terrace area • 30% of the total common open space on the roof of the building. For Block A, the rooftop COS space area is greater than 30%. Permitted = 211 m ² Proposed = 412 m ² (excess of 201m ²). For Block B, the rooftop COS space area is greater than 30%. Permitted = 263 m ² Proposed = 360 m ² (excess of 97 m ²). For Block C, the rooftop COS space area is greater than 30%. Permitted = 143 m ² Proposed = 288 m ² (excess of 145 m ²).	No. However this control was not in force at the date of lodgement of the DA.
Design of above ground common open space	Outdoor spaces on rooftop and podium level common open space must be designed to: <ul style="list-style-type: none"> • provide suitable shade, drainage and weather protection • provide landscaping and sustainable planting (minimum dimension of 1.5 m and 0.6 m minimum soil depth) Minimal measures provided. Details not provided on the plans.	No. However this control was not in force at the date of lodgement of the DA.

DCP requirement		Proposal	Complies
	<ul style="list-style-type: none"> • mitigate wind impacts and provide safety around edges for the safety of residents and visitors and pedestrians in the public domain. The applicant must address how the design will prevent falls and objects being thrown over the side • have set hours of operation. As a guide 8 am to 8 pm is encouraged on weekdays/nights. 	<p>No measures to mitigate wind impacts.</p> <p>Perimeter planting assists with safety around the edges.</p> <p>No details regarding prevention of falls and objects being thrown over the side.</p> <p>Details not provided in the application.</p>	

10 Blacktown Development Control Plan 2015

Summary comment

We have assessed the application against the relevant provisions of the Blacktown DCP 2015 and the table below only identifies where compliance is **not fully achieved**.

It is compliant with all other relevant matters under the DCP.

Part J Water Sensitive Urban Design and Integrated Water Cycle Management

The proposal fails to provide temporary and permanent water quality measures in line with Part J of the DCP and Council's WSUD standard drawings.

Part G Site Waste Management and Minimisation

The proposal fails to provide a suitable area for waste collection for Block C that is capable of being legally accessed by waste collection vehicles due to the temporary access road to the west of Block B having an insufficient width of 4.5 m (11 m is required). There is also insufficient turning area within the boundaries of the site for waste collection vehicles to access the kerbside waste collection for Block C and return to Grange Avenue.

The proposal also fails to provide a satisfactory Waste Management Plan and plans that sufficiently demonstrate that waste chutes have a discharge point, management of the ongoing use and management of waste facilities, sufficient bins based on our waste generation rates, sufficient storage rooms to store waste bins, recycling bins and bulky waste and bin movement aids where the travel distance of 1,100 litre bins exceeds the maximum permitted travel distance of 10 m.

The proposal also fails to indicate that waste trucks are capable of entering and exiting the site in a forward direction, that waste trucks do not obstruct the access driveway during loading and that access to the loading area will be coordinated by the building manager to ensure waste trucks can service the site during collection periods.