

Assessment report to Sydney Central City Planning Panel

Panel reference: 2018SWC011 DA

Development Application

DA number	SPP-17-00051	Date of lodgement	22 December 2017
Applicant	Graham Developers Pty Ltd		
Owners	A Constable & J Constable		
Proposed development	Demolition of existing structures, subdivision to create 3 development lots and 1 lot for roads, construction of new public roads, 3 residential flat buildings consisting of 132 apartments, 223 basement car parking spaces and associated drainage works and landscaping		
Street address	Lot 8 Section 7 DP 193074, 217 Grange Avenue, Marsden Park		
Notification period	14 to 28 March 2018	Number of submissions	Nil

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	Capital investment value (CIV) over \$20 million (DA has CIV of \$37.9 million).		
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • Blacktown City Council Growth Centre Precincts Development Control Plan 2018 • Blacktown Development Control Plan 2015 • Central City District Plan 2018 		
Report prepared by	Holly Palmer, Senior Project Planner		
Report date	6 February 2020		
Recommendation	Refuse, based on the grounds listed in this report.		

Attachments

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

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? Received. However not supported.

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)? Yes

Conditions

Have draft conditions been provided to the applicant for comment? Not applicable

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1 Executive summary

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- the proposed buildings exceed the maximum permitted building height and involves excessive rooftop structures
 - the proposal comprises a temporary access road through the part of the site, until such time as the surrounding road network is made available
 - the proposal comprises an additional new public road which is not consistent with the Precinct Plan
 - the proposal comprises a temporary access road to connect the southern block to Grange Avenue, which is insufficient in width and a poor design outcome
 - the proposal results in a poor built form and amenity outcome which fails to satisfy the relevant development controls
 - the proposal fails to confirm if the contamination on the site can be appropriately dealt with and if the site can be made suitable for residential use.
- 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 therefore 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 in Section 12 below.

2 Location

- 2.1 The site is in the suburb of Marsden Park. It is within the Marsden Park Precinct of the North West Growth Area as identified by State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP). The location of the site is shown at attachment 1.
- 2.2 The site is 360 m to the east of Richmond Road. The locality comprises rural-residential properties which are transforming to largely an urban residential area. An aerial image of the site and surrounding area is at attachment 2.
- 2.3 The site and surrounding properties are primarily zoned R3 Medium Density Residential. Some portions of land to the north-east and north-west are zoned R2 Low Density Residential.
- 2.4 A future local park is located 120 m to the north. Land 150 m to the east is zoned SP2 Local Drainage and will accommodate the future regional detention basin for the Bells Creek Catchment. Land 250 m further to the east comprises land zoned E3 Environmental Management. Land 140 m to the west is zoned B4 Mixed Use.
- 2.5 The future site of the Marsden Park Town Centre is on the opposite side of Richmond Road, being 430 m to the west of the site. The Growth Centres SEPP has also identified part of a Transport Corridor on the northern side of South Street, which is 115 m to the south of the site. The Transport Corridor extends eastwards to the existing Schofields Railway Station some kilometres to the east. However, the corridor has not yet been fully preserved on planning instruments between the Marsden Park and Schofields Precinct as the intervening precinct of West Schofields has not yet been rezoned. We understand that gazettal of that Precinct Plan may occur by the end of 2020. The zoning plan is at attachment 3.

- 2.6 The range of developments recently approved in this locality includes dwelling houses and residential flat buildings. The locations of Development Applications that have been approved, as well as currently under assessment, are also shown at attachment 3.
- 2.7 The site and adjoining properties that are zoned R3 Medium Density Residential have a maximum permitted building height of 14 m. The maximum permitted building height for properties zoned R2 Low Density Residential to the north-east and north-west is 9 m. The maximum permitted building height for the B4 Mixed Use zone to the west is 28 m.

3 Site description

- 3.1 The 1.093 hectare site is rectangular in shape. It has a high point located in the middle of its western boundary and slopes downwards to the east by 1.5 m.
- 3.2 The site has a 60.35 m wide frontage to Grange Avenue.
- 3.3 The site contains a dwelling and associated sheds, fencing and driveway off Grange Avenue.
- 3.4 There are 51 trees on the site. The trees at the perimeter of the site are identified as Shale Plains Woodland.
- 3.5 A small portion of the south-eastern corner of the site is identified as low flood risk.

4 Background

- 4.1 On 4 October 2013 the site was rezoned to R3 Medium Density Residential under the Growth Centres SEPP. The zoning and height of building maps for the site and surrounds is at attachment 3.
- 4.2 This application was lodged on 22 December 2017.
- 4.3 On 27 March 2018, we issued a letter to the applicant requesting further information and amended plans regarding engineering matters and amended designs that match the levels for the residential flat building development approved in DA-16-03716 on 28 February 2018 on the adjoining site to the east at 215 Grange Avenue, Marsden Park.
- 4.4 On 5 June 2018, we issued a letter to the applicant requesting further information and amended plans, including the submission of a comprehensive Safer by Design Report as required by the Police. We also required amended plans to address design issues raised by our City Architect, further details of the archaeological research and testing as recommended by the applicant's Aboriginal Due Diligence Assessment report, a Clause 4.6 request to address the creation of a lot which does not meet the minimum lot size of 2,000 m² and schematic plans demonstrating that the adjoining site to the south is capable of compliant and orderly redevelopment for residential flat buildings as a result of this proposal. We also requested clarification as to whether the proposal comprised staged works, basement storage areas which are unobstructed, communal open space area(s) that are at least 25% of the site area, communal open space areas which are embellished for passive and active recreation and a landscape plan for the area to be embellished when the temporary access road along Block B is removed.
- 4.5 We also requested that all ground level apartments are at or above the level of the surrounding public domain, shadow diagrams that also consider the approved residential flat buildings on the adjoining site to the east at 215 Grange Avenue (DA-16-03716), consideration of the retention of the existing trees on the site that are to be co-located with communal open space areas, clarification of the number of new medium and large trees, submission of a tree planting plan and a plan demonstrating pedestrian access between Block A and Block C. We also requested clarification of the proposed location, height and treatment of fencing, the location of electrical substations, if loading docks are to service

waste trucks and resident deliveries, the allocation of visitor and resident parking spaces and the provision of motorbike parking spaces.

- 4.6 Our Waste Section requested amended plans and an updated Waste Management Plan that demonstrates 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 amended plans were also required to demonstrate 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 compliant ramp grades and headroom clearance are provided. The applicant was also to demonstrate that access to the loading area will be coordinated by the building manager, to ensure waste trucks can service the site during collection periods.
- 4.7 On 5 June 2018, our engineer confirmed to the applicant that if its proposal comprises a temporary road due to the surrounding road network not being in place yet, it is required to construct an 11 m wide temporary road with half-width road construction on the applicant's site and the remaining half-width road construction of the adjoining site to the west, 219 Grange Avenue, Marsden Park. This arrangement would be dependent on the adjoining property owner providing owner's consent to that effect. The full 11 m road would be required to be constructed and completed prior to the issue of any Subdivision Certificate on the applicant's site. Council will not accept only half road temporary access. Alternatively, the applicant could complete the full 11 m temporary road within its site.
- 4.8 On 22 September 2018, the applicant submitted amended architectural plans for Blocks A and B. A full and complete re-assessment was unable to be undertaken as the required information in the form of supporting information and reports were not provided.
- 4.9 On 16 January 2019, we advised the applicant that the amended plans do not satisfy the concerns we previously raised and that the application is not supported. The applicant was requested to submit amended plans which respond to our above requests for additional information.
- 4.10 On 11 June 2019, we received amended architectural plans from the applicant. These plans fail to address the issues we raised. The amended plans removed the proposed new public road to the west of Block A and removed the proposed temporary road connecting Blocks A and C along the western boundary. The result is that no road access would be provided to any of the new local roads and the driveway access to any building. The amended plans also provided basement waste storage and collection. However, the proposal failed to demonstrate a design that complies with the development controls. The development proposed in the amended plans is still considered to result in a poor built form and amenity outcome and is incompatible with the desired future character of the Precinct.
- 4.11 On 12 June 2019, we received amended civil engineering design plans from the applicant. These plans failed to provide road access to each of the proposed buildings and failed to provide a stormwater discharge point. A retaining wall with a height up to 1.5 m is proposed along the eastern boundary of Block A. A retaining wall with a height up to 3.5 m is also proposed along the southern boundary of Block C. The retaining walls demonstrate that the interface with adjoining properties is totally unsuitable.
- 4.12 Given the applicant has failed to submit suitable plans which are accompanied by appropriate supporting plans and reports, we have prepared this report based on the DA submission documents and the amended plans submitted in September 2018.
- 4.13 On 20 June 2019, we met with the applicant and the applicants/representatives of the adjoining sites:

- The applicant for the current DAs on the adjoining site to the west at 219 Grange Avenue, Marsden Park, including DA-18-01300 for the subdivision of the site and DA-18-01301, DA-18-01302 and DA-18-01303 for residential flat buildings.
 - The representatives of the adjoining site to the east at 215 Grange Avenue, Marsden Park. This site is subject to Development Consent DA-16-03716 approved on 28 February 2018 for a residential flat building development.
- 4.14 The outcome of the meeting was that the 3 applicants would submit a new 'combined DA' for the subdivision of all 3 sites at 215, 217 and 219 Grange Avenue, Marsden Park, with the aim of delivering all roads at the same time. The consortium committed to managing the timing and construction of all new public roads in a manner which is consistent with the Indicative Layout Plan. The roads will be completed prior to the issue of any Construction Certificate for buildings.
- 4.15 At the date of writing this report, a new 'combined' DA for subdivision and roads had not been lodged by the applicant. Given the considerable delay, we considered it suitable to report this application to the consent authority in its current form.
- 4.16 On 7 January 2020, as this report was being finalised, the applicant lodged DA-20-00004 relating to all 3 sites at 215, 217 and 219 Grange Avenue, Marsden Park. DA-20-00004 is for the subdivision of the 'combined' site into 9 lots and construction of new public roads. The subdivision and construction of the new roads is to be staged: with Stage 1 works relating to 215 Grange Avenue; Stage 2 works relating to 217 Grange Avenue (the subject site) and Stage 3 works relating to 219 Grange Avenue.
- 4.17 DA-20-00004 proposes to construct an above ground on-site detention basin on each of the 3 properties, which discharge via an underground pipe across 2 privately-owned properties to the east (211 and 213 Grange Avenue). The stormwater is proposed to discharge through land zoned R3 Medium Density Residential to the part of 213 Grange Avenue which is zoned SP2 Local Drainage and is to accommodate a future regional detention basin under Section 7.11 Contributions Plan No. 21 – Marsden Park. DA-20-00004 is not accompanied by owner's consent from 211 and 213 Grange Avenue for drainage works to be undertaken on their land.
- 4.18 As stated above, given the considerable delay in the assessment of this application caused by the applicant and considerable issues raised in this assessment report which have not been satisfied over 2 years since DA lodgement, we considered it suitable to report this application to the consent authority in its current form, recommending refusal.

5 The proposal

- 5.1 The Development Application is for 3 x residential flat buildings at 217 Grange Avenue, Marsden Park and was lodged by Graham Developers Pty Ltd.
- 5.2 The applicant proposes the demolition of the existing structures, removal of all trees, subdivision to create 3 development lots (Blocks A, B and C) and 2 lots for roads, construction of new public roads and a temporary access road (to the west of Block B), 3 residential flat buildings consisting of 132 apartments, 223 basement car parking spaces and associated drainage works and landscaping.
- 5.3 The building heights are up to 16.9 m to the rooftop structures. Parts of the proposed development satisfy the maximum building height for this site, which is 14 m under the Growth Centres SEPP.
- 5.4 Details of the proposal are at attachment 4 and a copy of the development plans is at attachment 5.

6 Assessment against planning controls

- 6.1 An assessment of the Development Application against the section 4.15(1)(a) matters and relevant planning controls is at attachment 6.

7 Key issues

7.1 Proposed buildings exceed the maximum permitted building height

- 7.1.1 The applicant seeks to exceed the 14 m maximum permitted building height for this site by up to 2.9 m or 21%. This exceedance applies to the structures associated with the rooftop lift overruns and stairwells which provide access to the rooftop communal open space areas, and shading structures, bathrooms and lobby areas associated with the rooftop communal open space for each building. All habitable room areas comply with the permitted building height.
- 7.1.2 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. A summary of the applicant's justification follows, and a copy of the request is at attachment 7:
- The structures exceeding the maximum building heights for all 3 buildings are relatively small portions in comparison with the overall building footprint.
 - The proposal would not have an adverse impact on the adjoining lands.
 - The lobby areas and lift overruns also include fire stairs and the roof structure. It is necessary to provide fire stair access to the roof level in case of an emergency. While these elements exceed the maximum building height, they also do produce a significant benefit to the overall function and residential amenity of the proposal.
 - These design features allow access to the common open space on the roof level. As such, the proposal is considered to generate a skilful design outcome in balance of the proposal versus the minor material environmental impacts.
- 7.1.3 Our assessment of the adequacy of the request is at attachment 8. It identifies that there are insufficient environmental planning grounds to justify varying the development standard.
- 7.1.4 When compared to providing a development that strictly complies with the height of buildings development standard, 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 buildings generate excessive bulk that would impede the redevelopment of surrounding sites in a manner that will comply with the relevant controls.
- 7.1.5 The proposal does not offer a public benefit because it fails to provide a built form that is stepped with the slope of the site and accommodates the new levels required for the new public roads. The proposal generates a negative development outcome that impacts on the solar access of surrounding properties. The proposal provides excessive rooftop plant and equipment to properly service the development and access to rooftop communal open space areas. The proposal also fails to provide suitable waste collection arrangements. The proposal results in poor outcomes for and from development. Therefore, there is public benefit in Council maintaining strict compliance with the development standard.
- 7.1.6 Based on our assessment, the Clause 4.6 variation request is not considered reasonable, nor well founded. It is recommended that the request is refused.

7.2 The proposed roads are not consistent with the Precinct Plan

- 7.2.1 The proposed roads are not consistent with the proposed new public roads shown on the Indicative Layout Plan (ILP) in the Marsden Park Precinct Plan, because an additional half-width road is sought to be provided on the western side of Block A.
- 7.2.2 This additional half-width road is unacceptable because the remaining half-width of this road is not likely to be completed by the adjoining owner to the west. The road network will be incomplete and development will not be undertaken in a co-ordinated manner.
- 7.2.3 In addition, this will result in a road network comprising staggered streets that are in close proximity to each other and unnecessarily bisect street blocks.
- 7.2.4 This arrangement is not supported by our internal sections, including Access and Transport Management and Development Services Engineering.

7.3 A temporary access road is proposed to connect Block C to Grange Avenue

- 7.3.1 The proposal includes the provision of a 4.5 m wide temporary access driveway to access Block C at the rear (south) of the block to Grange Avenue as shown in attachment 4. This temporary road is proposed, to remain and provide 2-way access until such time as the surrounding road network is available.
- 7.3.2 This temporary arrangement is not supported because it is insufficient in width. Where a temporary road is proposed it is required to have a width of 11 m. The proposed temporary road has a shortfall of 6.5 m.
- 7.3.3 The applicant may share the provision of the temporary road with the adjoining site to the west at 219 Grange Avenue. However, the applicant still has a shortfall for the width of the temporary road of 1 m, and is required to provide owner's consent from 219 Grange Avenue for this arrangement.
- 7.3.4 The applicant has also failed to provide details of the treatment of this area once the temporary road has been removed. We require this area to be embellished for the benefit of future residents.
- 7.3.5 We are also concerned that this is a poor amenity outcome for the occupants of Block B due to the loss of suitable landscaping in this setback area and the private open space areas of 20 apartments abutting and/or overlooking this temporary road.

7.4 The proposal results in a poor built form and amenity outcome which fails to satisfy the relevant development controls

- 7.4.1 As discussed in detail at attachment 6, the proposal fails to meet a large number of significant development controls. In summary, the proposal fails to address the following requirements:
 - Consistency with the road layout in the Indicative Layout Plan for the Marsden Park Precinct, as required by Roads and Maritime Services.
 - Submission of a BASIX Certificate for the amended proposal under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
 - Satisfying the 9 design quality principles of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development:
 - context and neighbourhood character
 - built form and scale
 - density
 - sustainability

- landscape
- amenity
- safety
- housing diversity and social interaction
- aesthetics.
- Satisfying the design guidelines of the Apartment Design Guide for:
 - building separation
 - public domain interface
 - visual privacy
 - bicycle parking
 - apartment size (size and dimensions of bedrooms)
 - private open space and balconies
 - storage
 - acoustic privacy
 - configuration of ground floor apartments
 - design of building facades
 - roof design and treatments
 - universal design
 - energy efficiency
 - water management and conservation
 - waste management.
- Demonstrating consistency with the overarching planning priorities of the Central City District Plan 2018, including providing a well-considered design which contributes to creating great places, and contributing to providing suitable public roads and services to meet communities' changing needs.
- Satisfying the policy aims of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and Clause 19 regarding suitable development on flood prone land.
- Satisfying the Appendix 12 Blacktown Growth Centres Precinct Plan 2013 in terms of the objectives of the R3 Medium Density Residential zoning of the land and development standards for height of buildings and minimum lot sizes for residential development. The proposal also fails to satisfy Clause 5.9 regarding the preservation of trees.
- Satisfying controls in the Blacktown City Council Growth Centre Precincts Development Control Plan 2018 for:
 - the road layout as set out in the Indicative Layout Plan
 - management of the flow of stormwater and minimising the potential of flooding impacts on development
 - retention of native trees or vegetation
 - suitable subdivision layout and connectivity
 - minimum lot size for RFB developments (for Block C)

- the design of streets being consistent with Council's Engineering Guide for Development
- road designs which provide water sensitive urban design (WSUD) measures
- the availability of solar access for the sites to the south
- sustainable plant species which are indigenous
- front, corner, side and rear building setbacks
- building separation to adjoining sites
- impacts on the amenity of future redevelopment of adjoining sites.
- Satisfying controls in Blacktown Development Control Plan 2015 for the provision of temporary and permanent water quality measures in line with Part J WSUD and Integrated Water Cycle Management of the DCP and Council's WSUD standard drawings.

7.4.2 Overall, the proposed development is considered to result in unfavourable impacts to traffic, access, parking, design, bulk and scale, overshadowing, noise, privacy, waste management, tree and vegetation preservation and stormwater management. The site is not suitable for the development in its current form because it is considered to result in a poor built form and amenity outcome and is not in the public interest.

7.5 The proposal fails to confirm if the contamination on the site can be appropriately dealt with and if the site can be made suitable for residential use

7.5.1 As discussed in detail at attachment 6, the proposal is not accompanied by a Detailed Site Investigation which confirms the presence or extent of contamination and to confirm if the site can be made suitable for residential use as required by Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers in the locality between 14 and 28 March 2018. The Development Application was also advertised in the local newspapers and a sign was erected on the site.
- 8.2 No submissions were received.

9 External referrals

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

Authority	Comments
Roads and Maritime Services	Acceptable, provided the proposed dwelling density and road layout design is consistent with the Marsden Park Precinct Plan. As discussed in section 7 above, the proposal is not consistent with the road layout.
NSW Police	Not supported in its current form. The Police request that a comprehensive Safer by Design Report be prepared that addresses how all measures set out in Crime Prevention through Environmental Design are met. The Police highly recommend the following is considered:

Authority	Comments
	<ul style="list-style-type: none"> • Mailbox collection facilities be located in the glass front/wall of the foyers or inside foyers. • Information in relation to the type of CCTV and placement of cameras. • Type of graffiti resistant materials to be utilised. • Rooftop security. • Access control into foyers/basement and Police access in emergencies. • Information in relation to the security of individual garage storage facilities. • Management of building site theft during construction stage. • Fencing/security for ground floor units to prevent unauthorised access.

10 Internal referrals

- 10.1 The DA was referred to some internal sections of Council and is not considered acceptable in its current form.
- 10.2 Our City Architect identified some concerns during his initial evaluation. In response, the applicant submitted amended plans that relocated the driveways for Blocks A and B, and redesigned the pedestrian entries to be clearly defined from the street. The amended plans also reduced the size and amount of rooftop structures, increased the extent of rooftop planter boxes and amended the rooftop communal open space area to provide a more logical and usable layout with clearly defined zones for defined activities on Blocks A and B. The amended plans also increased the building separation to site boundaries, provided direct street access to ground floor apartments and a 2 m landscaped zone between driveways and site boundaries.
- 10.3 Our City Architect has reviewed the amended plans and acknowledges improvements to the plans. However, on 16 January 2019 we notified the applicant that further amended plans and information were required which relocate the driveways of Blocks A and B so they are not directly opposite each other, or demonstrate that this is a safe traffic arrangement. The plans are also required to be amended to provide a transition from the footpath to the communal open space areas without the need for steps and 180 degree ramps to accommodate longer, wider inclined 'walkways.' The concerns regarding Block C have not been addressed requiring waste collection to be provided wholly within the site, and preferably in the basement.
- 10.4 The applicant was also requested to demonstrate that the temporary access road does not impede on the private open space areas of the 5 ground floor apartments, given there will be no assurances as to how long the temporary access will be required to be used.
- 10.5 At least 1 pocket of deep soil area is to be provided within the central courtyards of Blocks A and B.
- 10.6 The applicant was also advised that the additional road along the western side of Block A is required to be deleted, to be consistent with the road layout in the Indicative Layout Plan for this Precinct.
- 10.7 Our Waste Officer has advised that the issues raised in our letter of June 2018 (refer to section 4 above) have not been fully addressed by the applicant's amended plans submitted in September 2018. The amended proposal comprises insufficient information to enable our Waste Officer to undertake an assessment.

10.8 Our Development Services Engineer advised the applicant in January 2019 that his requirements are still not satisfied (refer to section 4 above).

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 granting consent to the proposal would not be in the public interest. The site is not considered suitable for the proposed development.

12 Recommendation

1. Refuse Development Application SPP-17-00051 for the following reasons:
 - a. The proposed development is inconsistent with the road layout in the Indicative Layout Plan for the Marsden Park Precinct, as required by Roads and Maritime Services under SEPP (Infrastructure) 2007, because the proposal comprises an additional half-width road that will result in a road network that will be incomplete and development will not occur in a coordinated manner. The proposed roads will result in staggered streets that are in close proximity to each other and unnecessarily bisect street blocks (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 ('the Act')).
 - b. The application is not accompanied by a BASIX Certificate under SEPP (Building Sustainability Index: BASIX) 2004 (Section 4.15(1)(a)(i) of the Act).
 - c. The proposal fails to satisfy Clause 7 of SEPP No. 55 – Remediation of Land and does not demonstrate that the site can be made suitable for residential use (Section 4.15(1)(a)(i) of the Act).
 - d. The proposal is inconsistent with the design quality principles of SEPP No. 65 - Design Quality of Residential Apartment Development and specific criteria of the Apartment Design Guide, and does not justify its failure to meet these criteria (Section 4.15(1)(a)(i) of the Act).
 - e. The proposal fails to satisfy the policy aims and Clause 19 regarding management of the flow of stormwater and minimising the potential of flooding impacts on development under SEPP (Sydney Region Growth Centres) 2006 (Section 4.15(1)(a)(i) of the Act).
 - f. The application is considered unacceptable in that the proposed development fails to comply with the development standard for height of buildings under SEPP (Sydney Region Growth Centres) 2006 and the scale of the proposed buildings and their rooftop structures is excessive. The Clause 4.6 request to vary this development standard is not considered reasonable or well founded and is not supported (Section 4.15(1)(a)(i) of the Act).
 - g. The proposal fails to satisfy the minimum subdivision lot size development standard under the Growth Centres SEPP and has not been accompanied by a Clause 4.6 request to vary this development standard (Section 4.15(1)(a)(i) of the Act).
 - h. The proposal fails to satisfy Appendix 12 Blacktown Growth Centres Precinct Plan 2013 regarding the objectives of the R3 Medium Density Residential zoning of the land. The proposal also fails to satisfy Clause 5.9 regarding the preservation of trees (Section 4.15(1)(a)(i) of the Act).
 - i. The proposal is unsatisfactory in regard to the controls in the Blacktown City Council Growth Centre Precincts Development Control Plan (DCP) 2018 regarding road layout and design, management of stormwater, retention of trees, suitable


subdivision layout and connectivity, minimum lot size for RFB developments with regard to Block C, water sensitive urban design (WSUD) measures, solar access for the sites to the south, sustainable plant species, setbacks, building separation and impact on the amenity of future redevelopment of adjoining sites (Section 4.15 (1)(a)(iii) of the Act).

- j. The proposal is unsatisfactory in regard to the controls in Blacktown Development Control Plan 2015, Part J WSUD and Integrated Water Cycle Management and Council's WSUD standard drawings (Section 4.15(1)(a)(iii).
- k. The application 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 and items raised by the Police (Section 4.15(1)(a)(iv) of the Act).
- l. The proposed development is considered to result in unfavourable likely impacts to traffic, access, parking, streetscape and design, bulk and scale, overshadowing, noise, privacy, waste management, tree and vegetation preservation and stormwater management (Section 4.15(1)(b) of the Act).
- m. The application fails to demonstrate that the site can sustain a development of this scale and, as such, has not demonstrated that the site is suitable for the proposed development (Section 4.15(1)(c) of the Act).
- n. The development is not in the public interest because it results in a poor built form and amenity outcome and is incompatible with the desired future character of the Precinct (Section 4.15(1)(e) of the Act).

2. Council officers notify the applicant of the Panel's decision.



Holly Palmer
Senior Project Planner

Judith Portelli
Manager Development Assessment

Glennys James PSM
Director Planning and Development