

Assessment report to Sydney Central City Planning Panel

Panel reference: 2018SWC032

Development Application

DA number	SPP-18-00001	Date of lodgement	11 January 2018
Applicant	Stockland Development Pty Ltd		
Owner	Woorong Park Pty Ltd		
Proposed development	Subdivision to create 71 lots for the construction of 56 attached and 10 semi-detached dwellings, 4 dwelling houses and 1 studio dwelling, involving Torrens title, community title and strata subdivision, and associated landscaping and infrastructure works		
Street address	Approved Lots 3082 to 3086 in a subdivision of Lot 111 DP 1190510, Richmond Road Marsden Park		
Notification period	21 March to 6 April 2018	Number of submissions	Nil

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> CIV exceeds \$20 million (the Development Application was lodged prior to 1 March 2018) CIV for this application is \$22,246,162
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No. 55 - Remediation of Land State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Blacktown City Council Growth Centre Precincts Development Control Plan 2018
Report prepared by	Shakeeb Mushtaq
Report date	19 December 2018
Recommendation	Deferred commencement approval, subject to conditions listed in attachment 7.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development Application plans
- 6 Assessment against planning controls
- 7 Draft conditions of consent

Checklist

Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 matters been summarised in the Executive summary of the Assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the Assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the Assessment report? Not applicable

Special Infrastructure Contributions

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

Conditions

Have draft conditions been provided to the Applicant for comment? Yes

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1 Executive summary

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
 - the application of Clause 6.11 of Appendix 12 of the Growth Centres SEPP, to allow attached dwellings on land zoned R2 Low Density Residential
 - the inclusion of this DA into an existing Voluntary Planning Agreement in lieu of section 7.11 contributions
 - non-compliance with studio dwelling controls under Clause 4.33 of the BCC Growth Centre Precincts DCP.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is considered to be satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 7, which includes the deletion of the studio dwelling and associated strata title subdivision.

2 Location

- 2.1 The site is situated in the Marsden Park Precinct of the North West Growth Area (NWGA). Current access is from Richmond Road. However, future access will also be available from local roads, once the roads approved under previous consents in the surrounding area are constructed.
- 2.2 The surrounding locality comprises Stockland's Elara Estate to the south, west and east, and Winten's residential estate further to the west.
- 2.3 Future amenities will include a school site to the east, playing fields to the north (within the approved Precinct 3) and a neighbourhood centre to the south along Northbourne Drive.
- 2.4 The character of the wider locality is in transition due to rezoning by the NSW Government to release land for residential, employment and other urban development with most of the remaining rural land in Blacktown City being subdivided for small lot residential development.
- 2.5 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The subject land is known as approved Lots 3082 to 3086 in a subdivision of Lot 111 DP 1190510 (the 'Mother lot').
- 3.2 Lots 3082 to 3086 were created (but not yet registered) under DA-16-05045 within Stage 30A of Precinct 3 of Stockland's Elara Estate. These superlots, shown in attachment 2, are irregular in shape with a frontage to a local road.
- 3.3 The site has a total area of 1.45 ha comprising:
 - Lot 3082 1,910 m²
 - Lot 3083 1,976 m²
 - Lot 3084 2,429 m²
 - Lot 3085 6,429 m²
 - Lot 3086 1,727 m².

- 3.4 Earthworks, approved under development consent DA-14-01948, are currently underway to grade the site and prepare it for future dwelling construction and subdivision. The site is clear of any vegetation.
- 3.5 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 The site is zoned R2 Low Density Residential under the provisions of the Growth Centres SEPP.
- 4.2 The zoning plan for the site and surrounds is at attachment 3.
- 4.3 Council has approved bulk earthworks under DA-14-01948 for Precinct 3, involving the placing and engineering of fill materials, drainage works, construction of roads, removal of trees and demolition of structures. The bulk earthworks are currently being carried out.
- 4.4 Subsequently, Council approved Stockland's subdivision for Stages 27 to 32 under DA-16-05045 in Precincts 2 and 3 on 2 June 2017. This DA was for staged subdivision to create 362 residential lots, 12 super lots and 3 residue lots, construction of new roads and stormwater drainage works, land contouring, landscaping and associated works. The approved proposed Lots 3082 to 3086, that are to be developed in the current application, have been created in this subdivision.
- 4.5 DA-16-05045 also amended the Indicative Layout Plan (ILP) and the current DA is consistent with the changes approved to the ILP.

5 The proposal

- 5.1 The application proposes the development of the 5 residue lots for the following:
- Subdivision to create 71 lots, including Torrens title, community title and strata title lots. The proposed lot sizes will range from 125 m² to 334 m², with the residential lot frontages ranging from 4.5 m to 10.8 m.
 - Construction of 71 x 2 storey dwellings, made up of 56 attached dwellings, 10 semi-detached dwellings, 4 dwelling houses and 1 studio dwelling.
 - Land contouring and associated works including landscaping.
- 5.2 Other details about the proposal are at attachment 4 and a copy of the development plans is included at attachment 5.

6 Assessment against planning controls

- 6.1 A full assessment of the Development Application against relevant planning controls is provided at attachment 6, including:
- Environmental Planning and Assessment Act 1979
 - State Environmental Planning Policy (State and Regional Development) 2011
 - State Environmental Planning Policy (Infrastructure) 2007
 - State Environmental Planning Policy No. 55 – Remediation of Land
 - State Environmental Planning Policy (Sydney Region Growth Centres) 2006
 - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
 - Central City District Plan
 - Blacktown City Council Growth Centre Precincts Development Control Plan 2018.

7 Key issues

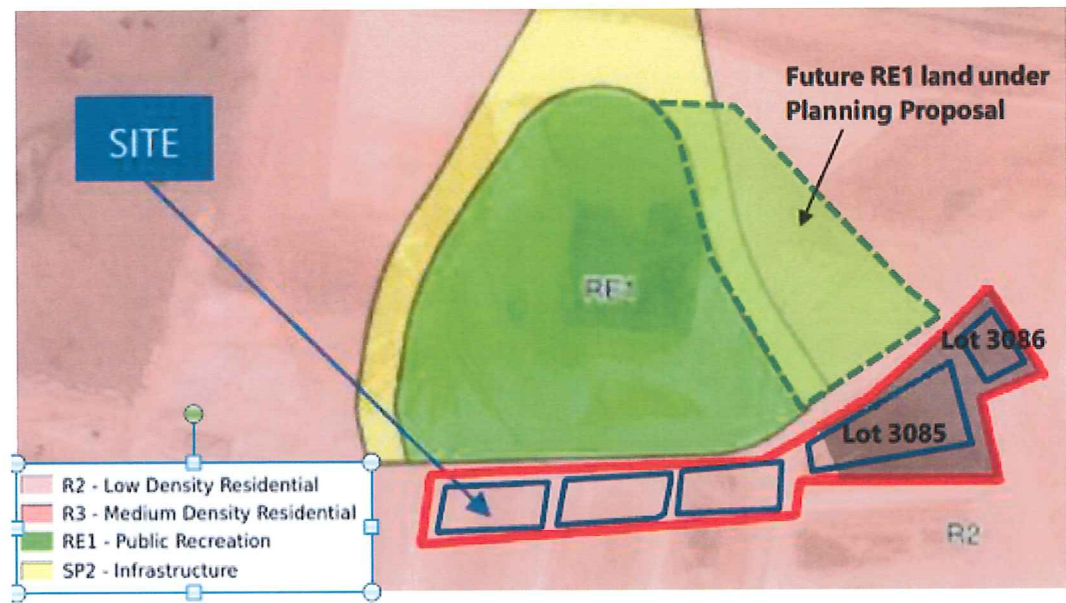
7.1 The application of Clause 6.11 to allow attached dwellings on land zoned R2

7.1.1 The subject land is zoned R2 Low Density Residential, which ordinarily prohibits attached dwellings. However, Clause 6.11 of Appendix 12 of the Growth Centres SEPP allows attached dwellings on land zoned R2 Low Density Residential as a permissible form of development if the dwelling density (per hectare) shown on the Residential Density Map is 15 and the land meets the following applicable criteria in Clauses 2 and 3:

- "2 Development for the purposes of attached dwellings or multi dwelling housing is permissible with development consent on land in Zone R2 Low Density Residential if the dwelling density (per hectare) shown on the Residential Density Map in relation to the land is 15 and the land:*
- (a) adjoins land in Zone RE1 Public Recreation, or is separated from land in that zone only by a public road, or*
 - (b) adjoins land in Zone B2 Local Centre or Zone B4 Mixed Use, or is separated from land in any of those zones only by a public road, or*
 - (c) is within 400m of land in Zone B2 Local Centre and:*
 - (i) adjoins land in Zone SP2 Infrastructure that is set aside for drainage or educational purposes, or*
 - (ii) is separated from land in Zone SP2 Infrastructure that is set aside for drainage or educational purposes only by a public road.*
- 3 Development must not be granted under this clause unless the consent authority is satisfied that:*
- (a) the attached dwellings or multi dwelling housing will not adversely impact on the amenity of any adjoining residential properties, and*
 - (b) the attached dwellings or multi dwelling housing will be designed and orientated to provide active frontages to and surveillance of the public recreation drainage land, and*
 - (c) the attached dwellings or multi dwelling housing will not adversely impact on or limit solar access to adjoining residential or public open space land."*

7.1.2 Until recently, only 3 of the proposed lots (lots 3082, 3083 and 3084) adjoined RE1 zoned land (only separated by a public road).

7.1.3 However, on 26 October 2018, the Department of Planning and Environment approved a Planning Proposal (LEP-17-00002) that amended the Growth Centres SEPP - Appendix 12 for the rezoning of 2 land parcels. This included rezoning of land zoned SP2 Local Drainage to RE1 Public Recreation as indicated in Figure 1 below.



7.1.4 This has enabled the application of Clause 6.11 as:

- The subject site has a density of a minimum of 15 dwellings per hectare.
- 4 of the 5 proposed lots (3082, 3083, 3084 and 3085) will all adjoin RE1 land (only being separated by a public road).
- Attached dwellings are proposed only on the portion of the remaining proposed Lot 3086 that is diagonally opposite the land zoned RE1 separated by a road/intersection. The remaining part of this lot is proposed to accommodate semi-detached dwellings, which are permissible in the R2 Low Density Residential zone.
- It will have minimal impact on the amenity of any adjoining residential properties, in particular privacy, as the attached dwellings on Lots 3082 to 3084 are orientated north-south with only the upper floor bedrooms facing the side elevations of the future dwellings to the south. The attached dwellings on Lot 3086 are orientated east-west and adjoin the side elevations of the future dwellings to the east. The attached dwellings on Lot 3085 do not interface with any dwellings outside this lot, as a row of semi-detached dwellings is provided behind these dwellings separated by a central laneway.
- The attached dwellings have been designed to face the future local park and therefore provide passive surveillance.
- The development will result in minimal overshadowing of the adjoining dwellings to the south and east.

7.2 Voluntary Planning Agreement and section 7.11 contributions

7.2.1 Stockland has an existing Planning Agreement (VPA) with Council to dedicate land for public purposes and carry out works related to Precincts 1 to 5. This VPA is called the Marsden Park Precinct 1 Planning Agreement. This agreement was updated in June 2017 to include Precinct 5.

7.2.2 This application seeks to further amend the VPA to include all residential development in the Elara Estate including the proposed 71 residential lots to be created under MD5, Stage 2 in Precinct 3. Once amended, the VPA will apply to all the residential development within Stockland's Elara Estate in lieu of section 7.11 contributions. The Applicant has provided a letter of offer to enter into an

agreement with Council to amend the existing VPA to include MD5, Stage 2 in Precinct 3.

7.2.3 Council's Developer Contributions Section has raised no objection to the variation to the VPA. It has, however, requested that any Development Consent granted be subject to a condition of consent requiring the finalisation of the VPA as it applies to all the residential development in the Elara Estate, prior to the release of a Subdivision Certificate.

7.2.4 The next stage of the transitional arrangements for section 7.11 contributions, to increase the capped contributions, came into effect on 1 July 2018 resulting in an increase to the contribution rates for residential lots from \$35,000 to now \$40,000 per lot. Council's Developer Contributions Section has not raised any objection to levy the section 7.11 contributions to the proposed lots to be created under this application. The contribution amount will then be credited against works being undertaken under the VPA.

7.3 Non-compliance with studio dwelling controls under Clause 4.33 of the BCC Growth Centre Precincts DCP

7.3.1 The proposal includes 1 studio dwelling to be built over a rear garage. The proposed studio dwelling fails to comply with the maximum gross floor area and separation requirements of the DCP.

7.3.2 The maximum gross floor area (GFA) for a studio dwelling under the DCP is 75 m². The proposed 2 bedroom studio dwelling is 88 m², with 74 m² on the upper floor and 14 m² on the ground floor.

7.3.3 The minimum distance between the upper floor rear façade of the principal dwelling and a studio dwelling under the DCP is 5 m. The proposed studio dwelling is only separated by 3.95 m.

7.3.4 Compliance with the DCP controls will require reduction in the GFA and an increased separation distance for the upper floor, thereby resulting in a smaller dwelling size.

7.3.5 The objective of allowing studio dwellings is to enable a diversity of dwelling types and contribute to the availability of affordable housing in the area. The majority of the housing products proposed as part of this application include 2, 3 and 4 bedroom dwellings. On that basis, it is considered that a 1 bedroom studio dwelling would be more consistent with the zone objectives.

7.3.6 The Applicant has not provided any valid reason for breaching the 2 numerical controls for this type of product. It is recommended that the studio and the garage be deleted as a condition of any consent granted. The Applicant has agreed to the deletion of the studio dwelling from the proposal.

8 Issues raised by the public

8.1 The proposed development was notified to property owners and occupiers in the locality between 21 March and 6 April 2018. The Development Application was also advertised in the local newspapers and a sign was erected on the site.

8.2 We received no submissions.

9 External referrals

9.1 No external referrals were required.

10 Internal referrals

10.1 The Development Application was referred to the following internal sections of Council for comment:

Section	Comments
Engineering	Acceptable subject to conditions
Building	Acceptable subject to conditions
Waste	Acceptable subject to conditions
Development Contributions	Acceptable subject to conditions
Traffic Management	Acceptable subject to conditions

11 Conclusion

11.1 The proposed development has been assessed against all relevant matters and is considered to be satisfactory subject to the deletion of the studio dwelling and associated garage. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development.

12 Recommendation

- 1 Approve Development Application SPP-18-00001 for the construction of 56 attached and 10 semi-detached dwellings and 4 dwelling houses with associated Torrens title and community title subdivision, and associated landscaping and infrastructure works, subject to the conditions listed in attachment 7.
- 2 The Applicant be notified of the Planning Panel's decision.



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