

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)	The proposal is considered to be consistent with the relevant EPIs, including SREP No. 20 – Hawkesbury-Nepean River 1997, SEPP (State and Regional Development) 2011, SEPP (Infrastructure) 2007, SEPP BASIX 2004, SEPP No. 55 – Remediation of Land, the Growth Centres SEPP 2006 and the Central City District Plan 2018.	Satisfactory
	The proposed development is a permissible land use in the R3 Medium Density Residential zone and satisfies the zone objectives outlined under the Growth Centres SEPP.	Satisfactory
(ii) Any environmental planning instrument (EPI)	<p>In May 2017, the Department of Planning and Environment (DPE) 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 the Department 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, the Department of Planning, Industry & Environment 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>	No, but the amendment is neither certain nor imminent.

Heads of Consideration	Comment	Complies
	<p>This site is in the Area 20 Precinct and the density band demonstrated in the Exhibition Package is 25 to 35 dwellings per hectare. This development proposes 91 dwellings over 1.656 hectares, which equates to 55 dwellings per hectare, being an additional 20 dwellings above that anticipated in the Exhibition Package. Although the proposal is inconsistent with the maximum dwelling density that was exhibited, there is no certainty or imminence to these amendments coming into effect, and therefore this is not a determinative matter for consideration in this application.</p> <p>Further, the Sydney Planning Panel has dealt with other Development Applications in the North West Growth Area that also do not comply with the exhibited (but not applicable) density bands. To be consistent, this Development Application should be dealt with in a similar way.</p>	
(iii) Any development control plan (DCP)	The Growth Centre Precincts DCP applies to the site. The proposed development is compliant with the numerical controls established under the DCP.	Yes
(iii a) Any Planning Agreement	N/A	N/A
(iv) The regulations	The regulations are not relevant to this proposal.	N/A
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	<p>It is considered that the likely impacts of the development, including traffic, access, parking, design, bulk and scale, overshadowing, noise, privacy, odour, waste management, flora and fauna, salinity, contamination, heritage and stormwater management, have been satisfactorily addressed.</p> <p>A site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties.</p> <p>In view of the above, it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.</p>	Yes
c. The suitability of the site for the development	<p>The site is zoned R3 Medium Density Residential with a 12 m building height limit under the Growth Centres SEPP. Multi dwelling housing is permissible on the site with development consent.</p> <p>The site has an area and configuration that is suited to this form of development. The design solution is based on sound site analysis.</p> <p>The site is located approximately 1 km from Tallawong Metro Station and approximately 2 km from the Rouse Hill Town Centre.</p>	Yes
d. Any submissions made in accordance with this Act, or the regulations	<p>The application was exhibited for comment for a period of 14 days and no submissions were received from the public.</p> <p>A late submission has been received, which on balance is not considered to have merit.</p>	Yes

Heads of Consideration	Comment	Complies
e. The public interest	<p>The site is capable of development for multi dwelling housing as well as residential flat buildings. The proposal for multi dwelling housing is suitable in this context as it is an extension of existing and future dwelling house development to the north-west of the site.</p> <p>The proposal provides various dwelling types with a mix of 3 and 4 bedrooms, contributing to the diversity of housing in the Area 20 Precinct. The overriding public interest is considered satisfied.</p>	Yes

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

Summary comment	Complies
The planning policies and recommended strategies under SREP 20 are considered to be met through the development controls of the Growth Centres SEPP.	Yes

3 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 \$30 million.</p> <p>As this Development Application has a CIV of approximately \$46 million, Council is responsible for the assessment of the Development Application and determination of the application is to be made by the Panel.</p>	Yes

4 State Environmental Planning Policy (Infrastructure) 2007

Summary comment	Complies
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. The development was referred to RMS, who found the development acceptable.	Yes

5 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>BASIX Certificates were submitted with the Development Application in line with the provisions of this SEPP. The BASIX Certificates demonstrate that the proposal complies with the relevant sustainability targets and will implement those measures required by the certificates. This will be conditioned in any consent granted.</p>	Yes

6 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 Phase 1 Contamination and Salinity Assessment Report prepared by Geo Enviro Consultancy Pty Ltd. The reports conclude that the risk of contamination is low and that the site can be made suitable for the proposed residential development. Once demolition of existing structures and clearing of all vegetation has been carried out, this will enable further validation testing to enable the site to be validated. The final validation statement must be prepared by an EPA recognised geoscientist without any limitations in accordance with the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 as amended 2013.</p>	<p>Satisfactory</p> <p>Meets the requirements of clause 7 of the SEPP.</p>

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 Development Application 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. 	Yes

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

Summary comment
<p>We have assessed the Development Application against the relevant provisions and the proposal is compliant with State Environmental Planning Policy (Sydney Region Growth Centres) 2006, with the exception of Clause 4.3 Height of buildings.</p>

i. Clause 4.3 Height of buildings

The proposed development seeks to vary Clause 4.3 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 which prescribes a maximum building height of 12 m for the subject site. Block A has a maximum height of 12.170 m and Block E 12.250 m, representing a departure of 1.4% to 2.3% to the maximum height standard. This increase in height results from the fall across the site.

The Applicant has submitted a request for variation to the building height development standard under Clause 4.6 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from the development by allowing flexibility in particular circumstances.

The Clause 4.6 variation request is considered reasonable, well founded and meets the objectives of the R3 Medium Density zone and the height of building development standard in Clause 4.3 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and is therefore supported.

Please refer to attachment 7 for the assessment of the Clause 4.6 variation to the building height standard.

9 Blacktown City Council Growth Centre Precincts Development Control Plan 2018

Summary comment

We have assessed the Development Application against the relevant provisions and the proposal is compliant with the Blacktown City Council Growth Centre Precincts Development Control Plan 2018, with the exception of the precinct Indicative Layout Plan and some front setbacks.

i. Clause 2.2 Indicative Layout Plan (ILP)

The Development Application is required to be generally in accordance with the Indicative Layout Plan.

The proposal is generally consistent with the Indicative Layout Plan. However, proposed Road No. 1 is shifted approximately 9 m to the east to allow for the half road construction to occur wholly within the subject site. This was necessary as the adjoining property (25 Macquarie Road) would not give owner's consent to the construction of part of the half width road by them on the neighbour's land in accordance with the adopted ILP. This will result in the splay at the 3 way intersection of Road No.2, Road No.1 and the Road on adjoining Lot 60 in DP 30186 being adjusted to meet site-specific intersection design in accordance with Council's Engineering Guide for Development.

The adjoining site to the west at 25 Macquarie Road was notified of the proposed amendment to the ILP road for a period of 14 days from 11 to 25 October 2019, however no response was received during that period. However, a late submission was received by us from this property owner in late November 2019.

No objection is raised by Council's Access and Transport Management, Engineering and Waste Sections to the variation. Therefore, the minor variation is acceptable in this instance.

ii. **Clause 4.3.4 Multi dwelling housing**

Front setbacks

A minimum 4.5 m front setback is required to be provided to the building façade line with 3 m to the articulation zone. The proposal generally complies with the front setback with the exception of dwellings A01, B06, J09, & C01, as the front setback to the facades range from 5.5 m to 2.5 m as a result of being the corner dwellings where a splay is required. This non-compliance is considered acceptable in this circumstance as the encroachment is only in part for each dwelling and an attempt has been made to increase the front setback through façade articulation of the dwellings.