

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

1 Environmental Planning and Assessment Act 1979

1.1 Section 4.22 'Concept Development Applications'

Summary comment	Complies
This application is lodged under section 4.22 Concept Development Applications under the Environmental Planning and Assessment Act 1979. As permitted by Clause 5, our consideration under section 4.15 of the Act as to the likely impact of the development the subject of the concept development application is limited to the likely impact of the concept envelopes for the development of the whole site and the detailed first and second stages of the development. This application does not include consideration of the likely impacts of the carrying out of development that will be the subject of subsequent development applications for the future stages of development, which is required to be the subject of separate detailed development applications (being the construction of new buildings in stages 3 to 7 and associated car parking within the proposed concept envelopes).	Yes, subject to conditions

1.2 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 State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy BASIX 2004, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, Sydney Regional Environmental Plan No. 20 Hawkesbury - Nepean River, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the 9 'design quality principles' of State Environmental Planning Policy 65. The subject site is zoned RE2 Private Recreation under the Blacktown Local Environmental Plan 2015. The proposal for 'Seniors Housing' is not a permissible land use within the RE2 zone. However, the development is to be undertaken under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and is permissible with consent on the site under Clause 4 as the site is land zoned primarily for urban purposes and is being used for the purpose of an existing registered club. On 10 July 2020, the Sydney Central City Planning Panel, issued a Site Compatibility Certificate facilitating the proposed seniors housing development. This allows Council to assess and consider the development application for its suitability on the site.	Yes, under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004 and the Site Compatibility Certificate issued for the site.

Heads of Consideration	Comment	Complies
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	State Environmental Planning Policy (Housing) 2021 came into force on 26 November 2021 which: - Introduced new definitions for build-to-rent housing, student housing and co-living; - Amended some state-level planning provisions to support social housing developments undertaken by the NSW Land and Housing corporation on government owned land; and - Consolidated the previous three housing related State Environmental Planning Policies: State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004, State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) Schedule 7 contains savings and transitional provisions under clause 2 to the effect that the former provisions of a repealed instrument (in this case State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004) continue to apply to the following: - a development application made, but not yet determined, on or before the commencement date, - a concept development application made, but not yet determined, on or before the commencement date State Environmental Planning Policy (Housing) 2021 is therefore neither applicable to the concept plan nor Stages 1 and 2 in accordance with the savings provisions. Since the amendments merely consolidated State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 which is relevant to this proposal with other housing State Environmental Planning Policies, the amendments do not impact on the proposal which was submitted prior to its gazettal anyway.	Yes
(iii) Any development control plan (DCP)	The Blacktown Development Control Plan 2015 applies to the site and stages 1 and 2 of the proposed development are compliant with the numerical controls.	Yes
(iii a) Any Planning Agreement	A letter of offer to enter into a Voluntary Planning Agreement relating to standard water sensitive urban design has been lodged with Council. A condition of consent has been imposed requiring the execution of this Voluntary Planning Agreement with Council prior to issue of a Construction Certificate.	Yes, subject to conditions
(iv) The regulations	There are no regulations to be considered.	N/A
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic	It is considered that the likely impacts of the development, including traffic, parking and access, design, bulk and scale, overshadowing, noise, privacy, waste management, salinity, contamination and stormwater management have been satisfactorily addressed for stages 1 and 2. Appropriate conditions have been imposed in the consent to ensure the likely impacts of stages 3 to 7 are addressed in future detailed development applications.	Yes

Heads of Consideration	Comment	Complies
impacts on the locality	In view of the above, it is considered that the proposed development will not have any unfavourable social, economic or environmental impacts.	
c. The suitability of the site for the development	The site has an area and configuration that is suitable for this form of proposed development. This is supported by the Sydney Central City Planning Panel issuing a Site compatibility certificate for the site. The proposed scale of the development in its transitional form, from 3 to 7 storeys, is considered appropriate for a site that has predominantly industrial and recreational uses around it. The site is considered suitable for the proposed development.	Yes
d. Any submissions made in accordance with this Act, or the regulations	We received 74 submissions, 71 in support and 3 objecting to the proposal. The issues raised by occupiers of industrial zoned properties to the west and south of the site relate primarily to flooding of neighbouring properties to the east as well as issues that would result during construction of the development including on-street parking impacts, noise impacts, dust and dirt emissions, loss and damage to business. None of the objections warrant refusal of the DA. The objections are examined in detail at attachment 7 of this report.	Yes
e. The public interest	The proposal provides a positive public benefit in the form of seniors housing, which is a land use compatible with the surrounding land uses. The proposal is consistent with the objectives of the Site Compatibility Certificate. Appropriate conditions have been included in the development of stages 1 and 2 to ensure the interests of neighbouring residents are addressed. Overall, the proposal will significantly contribute to the existing streetscape of Reservoir Road at this location as well as provide residential and employment opportunities. The proposal is therefore considered to be in the public interest.	Yes

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

Summary comment	Complies
The Sydney Central City Planning Panel is the consent authority for all development with a capital investment value (CIV) of over \$30 million. Under Clause 28 Schedule 2 of the State Environmental Planning Policy (State and Regional Development) 2011, seniors housing development with a capital investment value of over \$30 million and seniors housing development that includes a residential care facility is State Significant Development. Clause 23 of State Environmental Planning Policy (State and Regional Development) 2011 contains transitional provisions including that development identified by this Policy as State Significant Development is not State Significant Development if: - the development is the subject of a development application that was made, but not determined, before the development was so identified, and - the consent authority for that development application was a council or a Sydney district or regional planning panel.	Yes

Summary comment	Complies
This provision came into effect on 14 December 2021, well after the lodgement of this application. The proposal is, therefore, not State Significant Development in this case and can be determined by the Sydney Central City Planning Panel as a development application with a CIV of \$79.4 million.	

3 State Environmental Planning Policy (Infrastructure) 2007

Summary comment	Complies
Schedule 3 of this policy ensures that Transport for NSW is given the opportunity to comment on development nominated as 'traffic generating development'. The proposal is identified as traffic generating development and was therefore referred to Transport for NSW for comment. Transport for NSW supports the proposal and has provided deferred commencement conditions of consent for this development.	Yes, subject to deferred commencement conditions

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

Summary comment	Complies
The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this policy, including BASIX certification. A BASIX Certificate was submitted with the development application for stages 1 and 2 only. The BASIX Certificate demonstrates that the proposal complies with the relevant sustainability targets and will implement those measures required by the certificate. This will be conditioned in any consent granted.	Yes, subject to conditions for stages 1 and 2. N/A to the concept plan.

5 State Environmental Planning Policy No. 55 – Remediation of Land

Summary comment	Complies
This policy 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. A detailed site investigation, dated 10 December 2018, has been carried out by Trace Environmental, which identified some shallow fill material impacts with asbestos. The investigation found that the site can be made suitable for the proposed land uses following implementation of a remediation action plan, which sets out the remedial requirements for the asbestos impacted fill material at the site and validation of residual material at the site to residential standards in the National Environmental Protection Measure 2013 Guidelines. The proposal has been assessed by our Environmental Health officers who found it to be satisfactory subject to conditions including a requirement for the Remediation action plan to be submitted to Council for approval prior to the issue of a Construction Certificate. A Site audit statement is also required to be submitted to Council prior to the issue of a Construction Certificate to verify that the investigation, remediation and validation was carried out in line with the above guidelines and that the site is suitable for the proposed use.	Yes, subject to conditions

6 Sydney Regional Environmental Plan No. 20 – Hawkesbury - Nepean River

Summary comment	Complies
The planning policies and recommended strategies under Sydney Regional Environmental Plan 20 are considered to be met through the development controls of the Blacktown Development Control Plan 2015 and State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.	Yes

7 State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017

Summary comment	Complies
This policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation. The application is accompanied by a Flora, fauna and aquatic assessment report. This report has been assessed by our Natural Areas section which found it satisfactory subject to conditions.	Yes, subject to conditions

8 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Summary comment
We have assessed the proposal and found it to be compliant with all relevant provisions of this policy.

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

Summary comment
This policy applies to the assessment of development applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings. Clause 30 of the policy requires a consent authority to take into consideration: • advice (if any) obtained from the design review panel • design quality of the residential flat development when evaluated in accordance with the design quality principles • the Apartment Design Guide. We do not have a design review panel. As permitted by Section 4.22 (5) of the Act, detailed consideration of relevant provisions is to be undertaken in the separate detailed development applications for the conceptual portion of the proposal. The proposal is, however, considered capable of satisfying the 9 design quality principles and the relevant design concepts under both the State Environmental Planning Policy 65 and the Apartment Design Guide. This will be considered in detail in the separate future development applications. Notwithstanding this, the proposal does comply or exceed key controls: • 6 m side setbacks will be provided • 12 m building separation or more will be provided for buildings up to 4 storeys/12 m high. • 20 m building separation or more will be provided for buildings 5 to 8 storeys/up to 25 m high

Summary comment

- an excess of 25% of the site area for common open space
- an excess of 30% of the site area for landscaped area
- an excess of 7% of the site area for deep soil zones
- an excess of 70% of the apartments will achieve the required solar access
- an excess of 60% of the apartments will achieve cross ventilation.

Stages 1 and 2 of the proposal have also been assessed against State Environmental Planning Policy 65, the Apartment Design Guide and the 9 design quality principles, and are considered to comply with all matters namely:

- Building separation: a 20m separation or more will be provided between all buildings
- Solar access: 76% of the apartments in Stage 1 and 78% of the apartments in Stage 2 will achieve the required solar access
- Communal open space: 28% (5,739.5 m²) of communal open space will be provided to stages 1 and 2
- Private open space: all units will include compliant private open space areas in courtyards or balconies
- Deep soil zone: Deep soil will be provided in Stage 1 at 31.6% of the site area or 4,663 m² and in Stage 2 at 31.4% of the site area or 1,758 m².
- Landscaped area: exceeds the requirement when combining the already compliant deep soil and planter box landscaping.
- Cross ventilation: 68 of the 94 units (72%) of the apartments in Stage 1 will achieve natural cross-ventilation. 56 of the 72 units (78%) of the apartments in Stage 2 will achieve natural ventilation.

10 Central City District Plan 2018

Summary comment	Complies
While the Act does not require consideration of District Plans in the assessment of development applications, the proposal is consistent with the following overarching planning priorities of the Central City District Plan: Liveability • Improving housing choice • Improving housing diversity and affordability • Creating great places • Contributing to the provision of services to meet communities' changing needs.	Yes

11 Blacktown Local Strategic Planning Statement

Summary comment	Complies
The Blacktown Local Strategic Planning Statement outlines a planning vision for the City over the next 20 years to 2041. It contains 18 Local Planning Priorities based on themes of Infrastructure and collaboration, Liveability, Productivity, Sustainability and Implementation. The DA is consistent with the following priorities: • Liveability	Yes

12 Blacktown Local Environment Plan 2015

Summary comment

Blacktown Local Environment Plan 2015 applies to the site. We have assessed the development application against the relevant provisions and the proposal is considered to be compliant with all matters, including provisions for flood planning, preservation of trees and development with frontage to certain roads in the SP2 Zone.

13 Blacktown Development Control Plan 2015

Summary comment

Blacktown Development Control Plan 2015 applies to the site. We have assessed the development application against the relevant provisions and the proposal is considered to be compliant with all matters, including provisions for development adjoining high volume roads, land adjoining arterial and sub-arterial roads, services, crime prevention through environmental design, residential flat buildings, seniors housing, waste management and water sensitive urban design.
