

Assessment report to Sydney Central City Planning Panel

Panel reference:

Development application

DA number	REV-21-0009, to SPP-17-00016	Date of lodgement	4 March 2021
Applicant	Dreamscapes Architects Pty Ltd, Darren Laybutt		
Owner	K Min, Y Lee, Cdg No3 Pty Ltd		
Proposed development	Review of determination under section 8.2 of the Environmental Planning and Assessment Act 1979 of SPP-17-00016 for Integrated development proposing demolition works, tree removal then subdivision into 2 superlots, 1 residue lot, drainage works, temporary public road and public roads, followed by the construction of 4 residential flat buildings on the 2 superlots containing a total of 200 apartments, with basement car parking and associated works.		
Street address	105 Cudgegong Road, Rouse Hill		
Notification period	24 March to 7 April 2021	Number of submissions	None

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> Review of previous Sydney Central City Planning Panel decision for SPP-17-00016
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> 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 (Building Sustainability Index BASIX) State Environmental Planning Policy No. 55 - Remediation of Land State Environmental Planning Policy No. 19 - Bushland in Urban Area Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River 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 2010 Central City District Plan 2018 Blacktown Local Strategic Planning Statement 2020
Report prepared by	Luma Araim
Report date	4 November 2021
Recommendation	Approve, subject to deferred commencement consent including conditions listed in attachment 10.

Attachments

- 1 Location map
- 2 Aerial image as at November 2021
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development application plans
- 6 Assessment against planning controls
- 7 Applicant's Clause 4.6 variation submission
- 8 Council's assessment of Clause 4.6 variation
- 9 Original report to the Sydney Central City Planning Panel
- 10 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
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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
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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?	Yes
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Special Infrastructure Contributions

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

Have draft conditions been provided to the applicant for comment?	Yes
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1 Executive summary

- 1.1 The original application was refused on engineering grounds in order to respond to the State Governments desire to finalise applications that had not been determined within 180 days.
- 1.2 In addition to the original engineering grounds, the current review has identified additional matters that need to be considered in relation to the variation of standards.
- 1.3 The key issues that need to be considered by the Panel in respect of this Section 8.2 review are therefore:
 - the previously unsolved engineering matters in relation to stormwater and drainage matters. Conditions are proposed requiring their resolution to council's satisfaction, before the consent can be activated.
 - due to the residential units encroaching the 12 m height plane the applicant has to submit full amended architectural plans to remove the units which have habitable areas above the 12 m height plane. This will be included as a deferred commencement condition and we seek the Panel's delegated authority to approve the amended plans.
 - variations proposed by the applicant in relation to:
 - the maximum building height control under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006. A submission requesting these variations under Clause 4.6 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 has been provided by the applicant. Most variations are considered acceptable in this instance, given the sloping nature of the site and that they relate to matters such as the roof slab, lift overruns, roof top communal open space structures. With regard to the habitable areas of units in excess of the 12 m height plane, any units that encroach the height plane must be deleted from these plans and amended plans will be required as a deferred commencement condition.
 - the Apartment Design Guide for building separation; minimal internal area of apartments, private open space on ground floor and its depth, and the 8 m maximum distance of a habitable room from a window in an open plan. These variations are supported as they are minor and the measures proposed to address them are still consistent with the objectives of the Apartment Design Guide despite their numerical non-compliance
 - the Apartment Design Guide as it applies to the proportion of the communal open space proposed to be provided at ground level versus on the roof top. Given the history of this matter and the advice provided to the applicant at the time of its lodgement, this variation is considered acceptable.
 - the Apartment Design Guide as it applies to the interface measures proposed between the ground level units and common pathways to minimise any potential privacy and overlooking concerns, are considered acceptable.
 - the loss of Shale Plains Woodland. 156 trees are proposed for removal to enable the development on the site. Conditions are proposed in relation to a Vegetation Management Plan to guide replacement planting retention of the existing woodland structure including dead trees and habitat and its maintenance for a suitable period of time.
 - the proposal includes provision for a temporary access road through the part of the site zoned RE1 Public Recreation, until such time as the surrounding road network is made available

- this review would normally have had to be determined within 6 months from the original date of determination by the Panel which was 23 December 2020. Due to the Minister for Planning's Covid19 legislation it has been extended by 6 months and the review must now be determined by 23 December 2021.
- 1.4 The application is therefore satisfactory when evaluated against Section 4.15 and Section 8.2 of the Environmental Planning and Assessment Act 1979.
 - 1.5 This report recommends that the Panel approve the application subject to conditions including deferred commencement conditions at attachment 10.

2 Location

- 2.1 The site is located in Rouse Hill. It is within the Cudgegong Road (Area 20) Precinct of the North West Growth Area as identified by State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP).
- 2.2 The site is on the western side of Cudgegong Road. It is 800 m to the north-west of Tallawong Metro Station and 145 m north of Cudgegong Reserve, which is zoned E2 Environmental Conservation.
- 2.3 The site and adjoining properties are zoned R3 Medium Density Residential with a maximum permitted building height of 12 m. The maximum permitted building height increases towards the future Local Centre to the south-east, from 16 m up to 26 m.
- 2.4 The eastern portion of this site and surrounding properties between Rouse Road and 129 Cudgegong Road are zoned RE1 Public Recreation and together will form a future local park.
- 2.5 Power lines together with an associated easement currently run north-south across the site, parallel with Cudgegong Road.
- 2.6 The locality is in transition. It comprises a mix of rural-residential properties and properties under development. The range of redevelopment occurring in this locality includes dwelling houses, multi dwelling housing, residential flat buildings and the future Tallawong Local Centre.
- 2.7 The location of the site is shown at attachment 1.

3 Site description

- 3.1 At time of lodgement, the site consisted of 1 lot, being Lot 80 DP 208203. The original Lot 80 had an area of 20,235 m² and was rectangular in shape. It has a centrally located high point and slopes downwards to the north-east and south-west. The land slopes to the rear by approximately 7.5 m. there is a fall from north to south of about 1-2 m
- 3.2 The site had a frontage of 72 m to Cudgegong Road on its eastern boundary and a depth of 280.86 m.
- 3.3 226 trees on the site have been identified as Shale Plains Woodland species. A grassed area towards the centre of the site contains the electricity easement.
- 3.4 The site contains a 2-storey brick dwelling and associated structures, fencing and gravel driveway off Cudgegong Road
- 3.5 The site contains a 2-storey brick dwelling and associated structures, fencing and gravel driveway off Cudgegong Road
- 3.6 The original site has since been subdivided into 2 lots, being Lots 801 and 802 in DP 1241791. At this point in time the site is still known as 105 Cudgegong Road, Rouse Hill.

- Lot 801 is the R3 Medium Density zoned lot, which is 13,900 m² and proposed to contain the residential flat buildings and new roads
 - Lot 802 is the RE1 Public Recreation zoned lot, and has an area of 6,337 m². The existing powerlines and easement are located along the western boundary of this lot, adjacent to the location of the proposed units. A temporary access road is also proposed through this lot, connecting lot 801 to Cudgegong Road. The temporary road has been agreed to in principle by Council officers.
- 3.7 The site is not identified as flood prone.
- 3.8 The site is identified as bushfire prone land on the Rural Fire Service map and is identified as buffer 1/category 1.
- 3.9 The site has a moderate salinity potential.
- 3.10 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 On 21 October 2011 the site was rezoned to R3 Medium Density Residential under State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
- 4.2 The zoning plan for the site and surrounds is at attachment 3.
- 4.3 On 23 December 2020, SPP-17-00016 was refused by the Sydney Central City Planning Panel in accordance with a Ministerial direction is to determine Development Applications that had been in the system more than 180 days.
- 4.4 The basis for the refusal was as follows:
- substantial information necessary to the application has not yet been provided; and
 - with regard to State Environmental Planning Policy 65 Amenity, the proposal does not satisfy this principle due to the location of the driveways in the separation areas between the buildings which creates adverse visual and acoustic impacts on the apartments adjacent to the driveways; and
 - the proposal does not provide the circulation corridors on all levels with access to natural light and ventilation contrary to the Apartment Design Guide
- 4.5 The applicant subsequently lodged a Section 8.2 Review on 4 March 2021.
- 4.6 The panel was then briefed on 25 August 2021. The key issues covered during the course of the briefing included:
- the reasons for the Panel refusal of the original development application
 - the provision of infrastructure associated with the 'greenfield' site in a newly planned urban area; and acceptability of the design of the buildings and development site
 - the requirement of essential infrastructure including provision of roads and drainage, given it is a greenfield site
 - ongoing discussions between the applicant and our infrastructure engineers in regard to satisfactory arrangements for coordination of essential infrastructure to service the site and also contribute to the planned roll-out for the broader location
 - the requirement for temporary road construction and access, with design details also being negotiated
 - the long term planned road network and the sites dependency upon connections and timing of development of adjoining properties

- the assessment of the design of the buildings associated with the Apartment Design Guide
- the proposed likely resulting variations to standards and the guide.

5 The proposal

- 5.1 This Review of determination under section 8.2 of the Environmental Planning and Assessment Act 1979 of SPP-17-00016 for an Integrated development application was also lodged by Dreamscape Architects Pty Ltd.
- 5.2 The applicant still proposes:
- Torrens title subdivision into 3 lots, being:
 - proposed Lot 1 of 4,798 m2 (being the re-subdivision of Lot 801)
 - proposed Lot 2 of 4,502 m2 (also being a subdivision of Lot 801)
 - proposed residue Lot 3 of 6,337 m2 (being a re-subdivision of Lot 802 zoned RE1 Public Recreation) for future Council acquisition
 - construction of 4 public roads (being the remaining areas of Lot 801).
 - demolition of the brick dwelling and outbuildings
 - removal of 156 trees,
 - stormwater drainage works, landscaping and street tree planting
 - construction of 3 x 4-storey and 1 x 5-storey residential flat buildings containing a total of 200 apartments and 2 levels of basement car parking
 - construction of a temporary access road through part of the site, being proposed Lot 3 (residue lot for future public reserve to be acquired by Council in the future) which is zoned RE1 Public Recreation. The application is also classified as 'integrated development' under section 4.4.6 of the Environmental Planning and Assessment Act 1979, as bushfire safety authority from NSW Rural Fire Service is required.
- 5.3 Details about the proposal are at attachment 4.
- 5.4 A copy of the development plans are 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.

7 Key issues

- 7.1 **Previously unresolved drainage engineering matters - can be addressed by way of conditions.**
- 7.1.1 Our drainage and development engineers have recommended deferred commencement conditions. This will ensure that the applicant provides sufficient information on the safe and legal conveyance of stormwater flows through and from the subject development to Council's existing drainage system/legal point of discharge.
- 7.1.2 The conditions will require the applicant to:
- create and register an easement (in gross to cover council and upstream catchment) for stormwater drainage under Section 88B of the Conveyancing Act, 1919

- modify the proposed dead-end road at the properties ??? boundary, to include a temporary turning head at the property boundary to allow for the circulation of traffic.
- provide additional information demonstrating that the stormwater tail out works along the southern end of Cudgegong Road can be adequately connected by the applicant to the existing infrastructure downstream of the site with a free-flowing outlet or connection into existing infrastructure that is compatible.

7.1.3 The submission of the above information will enable our drainage and development engineers to review the information:

- that is required to be provided by the applicant
- to ensure its to Council's satisfaction, before the development consent can be activated.

7.2 Temporary access road proposed through the part of the site zoned RE1 Public Recreation.

- 7.2.1 The overall proposal is consistent with the new public roads provided in the Indicative Layout Plan (ILP) in the Cudgegong Road (Area 20) Precinct Plan. However, the adjoining sites to the north, south and east are all zoned R3 Medium Density Residential and are yet to be redeveloped. Therefore, the site does not have public road access.
- 7.2.2 In the interim, the Applicant proposes to provide a winding temporary access driveway from Cudgegong Road through the part of the site zoned RE1. This winding temporary access has been located to avoid unnecessary tree loss. It will provide pedestrian and vehicular access to other areas of the proposal and the surrounding properties, until such time as the surrounding road network is constructed and available for public access. Conditions have been included to ensure the long-term removal of the temporary road.
- 7.2.3 Council supports the provision of 1 temporary access road in the land zoned RE1. Currently temporary access roads are proposed in respect of both 95 and 105 Cudgegong Road (SPP-17-00041) which is subject to the same constraint. Should an access road be constructed for either property (95 or 105 Cudgegong Road), this is the only temporary access road required to be constructed, in order to protect the quality and availability of the RE1 zoned land. This is reflected in the draft conditions of consent at attachment 10.
- 7.2.4 This arrangement is supported by our internal sections, including Access and Transport Management, Recreation Planning and Design, and Civil and Open Space Infrastructure. When the surrounding new public road network is in place, the Applicant is responsible for completing and dedicating their new public roads to Council, removing the temporary access road on the part of the site zoned RE1 and returning the land to a condition acceptable to our Recreation Planning and Design section. The part of the site zoned RE1 is then available for acquisition by Council, in line with the Growth Centres State Environmental Planning Policy.
- 7.2.5 This is a suitable arrangement as the access road will be removed once the surrounding road network is in place.

7.3 Variations to standards and guidelines.

- 7.3.1 11 variations are proposed in total, 6 to the nominated maximum building height and 5 in respect of the Apartment Design Guide.

7.4 In the case of proposed Lot 1, three (3) variations have been proposed in respect of the 12.0 m Maximum Building Height – refer to Clause 4.3 of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

7.4.1 Variation 1 - Building A1 - A roof slab with a maximum height 13.3 m and roof parapet with a maximum height 13.6 m are proposed. This constitutes a variation of 11% and 13% respectively.

Building A2 - A roof slab with a maximum height 13.6 m and roof parapet with a maximum height 13.9 m are proposed. This constitutes a variation of 13% and 16% respectively.

The justification for the variation is based on:

- The topography of the site
- The necessity to increase the basement clearance from 3.5 m to 4.5 m to accommodate the collection of waste from the basement.

Council Officers have considered the proposed variation and formed the view that it should be supported for the following reasons:

- The site does slope steeply from east to west
- The removal of waste collection bins from the roadside on waste collection days will improve the visual amenity of the area.

7.4.2 Variation 2 - Lift overruns 12.9m in height for Buildings A1 and A2 are proposed. This is a variation of 20%.

The justification for the variation is based on:

- The topography of the site
- The necessity to increase the basement clearance from 3.5 m to 4.5 m to accommodate the collection of waste from the basement.

Council Officers have considered the proposed variation and formed the view that it should be supported for the following reasons:

- The site does slope steeply from east to west
- The breach in height will not result in detrimental overshadowing impacts to the adjoining properties.
- The lift overruns will not be visible from the street as they are centrally located. Therefore, no adverse visual impact is expected as a result of this breach.

7.4.3 Variation 3 - The upper level units are between 12.3 m and 14.5 m and above the 12 m height plane.

The justification for the variation is based on:

- The topography of the site
- The necessity to increase the basement clearance from 3.5 m to 4.5 m to accommodate the collection of waste from the basement.

Council Officers have considered the proposed variation and formed the view that it should not be supported for the following reasons

- The increase above the 12 m height plane is greater than the increase in the height of the basement clearance.
- Upper level units in excess of 12 m should be deleted.

7.5 In the case of proposed Lot 2, three (3) variations have been proposed in respect of the 12.0 m Maximum Building Height – refer to Clause 4.3 of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

- 7.5.1 Variation 4 - Building B1 - A roof slab with a maximum height 12.2 m and roof parapet with a maximum height 12.5 m are proposed. This constitutes a variation of 1.6% and 4.2% respectively.

The justification for the variation is based on:

- The topography of the site
- The necessity to increase the basement clearance from 3.5 m to 4.5 m to accommodate the collection of waste from the basement.

Council Officers have considered the proposed variation and formed the view that it should be supported for the following reasons:

- It is Council's custom and practice to accept minor breaches where no off-site impacts result.
- The removal of waste collection bins from the roadside on waste collection days will improve the visual amenity of the area

- 7.5.2 Variation 5 - Lift overruns 12.9 m for Building B1 and 15.1 m for Building B2 in height are proposed. This is a variation of 7.5% and 26% respectively. The staircase to the rooftop communal open space is 15 m in height for Building B2. This is a variation of 26%.

The justification for the variation is based on:

- The topography of the site
- To provide access to the roof top communal open space including disabled access.
- To ensure an additional communal space is provided for the benefit of future residents.

Council Officers have considered the proposed variation and formed the view that it should be supported for the following reasons:

- The site does slope steeply from east to west
- The breach in height will not result in detrimental overshadowing impacts to the adjoining properties.
- The lift overruns and the staircase will not be visible from the street as they are centrally located. Therefore, no adverse visual impact is expected as a result of this breach.

- 7.5.3 Variation 6 - Habitable area of units between 13 m and 13.4 m and over the height plane of 12 m are proposed.

The justification for the variation is based on:

- The topography of the site
- The necessity to increase the basement clearance from 3.5 m to 4.5 m to accommodate the collection of waste from the basement.

Council Officers have considered the proposed variation and formed the view that it should not be supported for the following reasons:

- The increase above the 12 m height plane is greater than the increase in the height of the basement clearance.

- Upper level units in access of 12 m should be deleted.

7.6 In the case of proposed Lots 1 and 2, five (5) variations have been proposed in respect of the provisions of the Apartment Design Guide.

7.6.1 Variation 7 - The building separation between A1 and A2 Buildings under 2F of the Apartment Design Guide is proposed to be reduced from 12 m to 7.45 m.

The justification for the variation to 12 m building separation is based on:

- Building A2 will have blank walls facing those balconies on Building A1 within the 12m separation area.

Council Officers have considered the proposed variation and formed the view that it should be supported for the following reasons:

- The proposal will achieve suitable privacy and noise attenuation despite the encroachment into the 12 m to all the units in buildings A1 and A2.

7.6.2 Variation 8 - Internal Areas of apartment A2-1F03 and B2-1F10 are below the 50 m² requirements in 2D Apartment size and layout of the Apartment Design Guide. This constitute a variation of 2%.

The justification for the variation is based on:

- Minor variation of 2% to the size of 2 apartments is acceptable as all apartments comply with the required internal areas under the Apartment Design Guide.

Council Officers have considered the proposed variation and formed the view it should be supported for the following reasons:

- The apartments are compliant with all other requirements and controls under Apartment Design Guide and the 2% variation to apartment size is acceptable for only 2 apartments.

7.6.3 Variation 9 - The proposed Private Open space on the ground floor of A1-GF01, A1-GF02, A1-GF04, A1-GF05, A1-GF08, A1-GF09, A1-GF10, A1-GF11, A1-GF12 and A2-GF01 is below the 15 m² required in of 4E-1.2 of the Apartment Design Guide. The courtyards will range between 8 m² and 13 m². Also under 4E of the Apartment Design Guide the depth of the courtyards is to be minimum of 3 m but some of these apartments will only have a depth of between 2m and 2.6m.

The justification for the variation is based on:

- Minor non-compliance.

Council have considered the proposed variations and has formed the view that these variations should be supported for the following reasons:

- residents in these apartments will have both a private courtyard and close proximity to the common open space provided on the ground level.

7.6.4 Variation 10 - The proposal includes a variation to Objective 4D-2.2 'Environmental performance of the apartment is maximised' of the Apartment Design Guide. The guide requires the maximum distance for a habitable room from a window in an open plan layout to be 8 m.

In this case Apartments A1-GF07, A1-GF08, A1-GF09, A1-1F09, A2-1F02, A2-1F06, A2-1F07, A2-1F08, A1-2F09, A2-2F06, A2-3F06, A2-4F06, B2-GF09, B2-1F04, B2-2F04 and B2-3F04 will exceed the required 8 m by between 0.01 m and 0.1 m.

The justification for the variation is based on:

- Minor non-compliance

Council Officers have considered the proposed variation and formed the view that it should be supported for the following reasons:

- The variation is considered minor and will not negatively impact on the quality of residential amenity of these apartments regarding daylight, sunlight and cross ventilation and so still meets this objective.

7.6.5 Variation 11 - The proposal includes a variation to Objective 4E-1 'Apartments provide appropriately sized private open space and balconies to enhance residential amenity' of the Apartment Design Guide. The guide requires balcony depth to be 2 m for 1- and 2-bedroom apartments and 2.4 m for 3 plus bedroom apartments.

In this case the following 3-bedroom apartments, B2-1F02, B2-2F02 and B2-3F02 are 3-bedroom apartments with balcony depths ranging between 2.3 m and 2.38 m.

The justification for the variation is based on:

- Minor non-compliance.

Council Officers have considered the proposed variation and formed the view that it should be supported for the following reasons:

- The balcony depths ranging between 2.3 m and 2.38 m being only a variation of between 0.02 m and 0.1 m is considered minor and acceptable for 3 apartments.

7.7 The interface treatment proposed between ground level units and common pathways will minimise any potential privacy and overlooking concerns

7.7.1 For the interfaces between ground level apartments and common pathways, applicant proposes landscaping strip coupled with 1 m high masonry walls and associated 800 mm high privacy screens (palisade fence). The objective of this design is to mitigate overlooking but without eliminating casual surveillance.

7.7.2 Apartment A2-1F11 which will face a ramp will be provided with a privacy screen to eliminate any views into the private open space balcony.

7.7.3 The apartments adjoining communal open space areas are provided with entry gates to their courtyards. The remainder of the courtyards will be protected by privacy screens and landscaping.

7.7.4 Buffer landscaping to ground level courtyard private open space will comprise screen planting shrubs with mature heights of 1.8 m or higher, including Lilly Pillies 'Cascade' and 'Cherry Surprise'

7.8 156 trees are proposed for removal to enable the development on the site

7.8.1 There are 226 trees on the site that are identified as Shale Plains Woodland species. A grassed area is located in the part of the site containing the electricity easement and in the central part of the site. 156 trees are proposed for removal and 70 trees will be retained. Conditions are proposed in relation to a Vegetation Management Plan to guide the replacement planting and its maintenance for a suitable period of time.

7.8.2 It is proposed for the majority of the trees in proposed Lot 3 (the future public reserve) will be protected. 25 trees will be protected and 7 trees are dead and will be removed. Conditions are proposed in relation to a Vegetation Management Plan to guide replacement planting retention of habitat including dead trees and maintenance for a suitable period of time.

- 7.8.3 Our Open Space Infrastructure requested an updated Arboricultural Impact Assessment report with a site-specific tree management plan for a review and approval prior to work commencing to ensure the removal.

8 Issues raised by the public

- 8.1 The current application was notified to property owners and occupiers in the locality between 24 March and 7 April 2021. The application was also advertised in the local newspapers and a sign was erected on the site. The original development was notified between 28 September and 12 October 2021.
- 8.2 We received no submissions in respect of either notification.

9 External referrals

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

Authority	Comments
NSW Rural Fire Service	Acceptable subject to supplied General Terms of Approval these will be conditions of consent

10 Internal referrals

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

Section	Comments
City Architect	Acceptable
Building	Acceptable
Traffic	Acceptable
Waste	Acceptable subject to conditions
Environmental Health Unit	Acceptable subject to conditions
Recreation Planning and Design	Acceptable subject to conditions
Open Space Infrastructure	Acceptable subject to conditions
Development Engineers	Acceptable subject to deferred commencement conditions
Drainage/Stormwater Engineers	Acceptable subject to deferred commencement conditions
S7.11	Acceptable subject to conditions

11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is considered to be generally satisfactory subject to removal of the units above the 12 m height plane. It is considered that the likely impacts of the development have now been

satisfactorily addressed and that the proposal is now in the public interest. The site is considered suitable for the proposed development subject to deferred commencement conditions included at attachment 10.

12 Recommendation

- 1 Uphold the applicant's Clause 4.6 request for variation of the maximum building height, for the review application REV-21-0009 for the reasons listed below, and subject to the conditions listed in attachment 10.
 - a The proposal promotes the orderly and economic use and development of the site because it provides a built form that does not generate any adverse environmental impacts, nor does it result in any increase in residential apartments or density and is therefore considered acceptable in the circumstances. The residential flat building proposed is an expected outcome of a 12 m height limit development standard.
 - b The proposal still meets the objectives of the zone.
 - c No extra residential density will be provided above the designated height plane only plant and equipment and roof top communal open space features.
 - d It is considered that the applicant's written request at attachment 7, justifying the variation of the development standard, has adequately addressed the matters required to be demonstrated by Clause 4.6 (3) for plant equipment and roof top communal open space features only. However, the applicant's request is not accepted to support residential units above the 12 m height plane.
- 2 Approve the review application REV-21-0009 to SPP-17-00016 as a deferred commencement consent including conditions at attachment 10, for the reasons listed below:
 - a The proposal in its modified form will result in an acceptable scale of development for the site and generally complies with the relevant provisions of the applicable planning controls [Section 4.15 (c) of the Environmental Planning and Assessment Act 1979].
 - b The request made under Clause 4.6 of the State Environmental Planning Policy (Sydney Growth Centres) 2006 to vary the maximum height of buildings development standard is acceptable but only for variations to plant and equipment and roof top communal open space. Strict compliance with the development standard in this regard only is unreasonable and unnecessary for plant equipment and roof top open space elements only and there are sufficient environmental planning grounds to justify the variation to the development standard [Section 4.15 (c) of the Environmental Planning and Assessment Act 1979].
 - c The proposed development when modified will not create an adverse environmental impact on existing or future potential adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy impacts [Section 4.15 (b) of the Environmental Planning and Assessment Act 1979].
 - d Granting consent to the proposal in its modified form will not have any unreasonable social, economic or environmental impacts on the area. [Section 4.15(1)(b) of the Act].
 - e The site is suitable for the proposed development, under State Environmental Planning Policy (Sydney Region Growth Centre) 2006. [Section 4.15(1)(c) of the Act].
 - f It is considered that the likely impacts of the development have been satisfactorily addressed and can be supported through the conditions of consent listed at attachment 10 of the report. [s4.15(1)(b) of the Act].

- 3 The Panel chair delegate to the Director City Planning and Development the authority to approve amended architectural plans from the applicant to ensure they meet the designated height plane of 12 m except for plant, equipment and roof top common open space.
- 4 Council officers notify the applicant of the Panel's decision.



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