

Assessment report to Sydney Central City Planning Panel

Panel reference:

Development application

DA number	SPP-21-00013	Date of lodgement	16 November 2021
Applicant	CDG Pty Ltd - C/ Urbis		
Owner	CDG Pty Ltd		
Proposed development	Construction of 9 residential flat buildings over 6 stages, 9 - 10 storeys each (including lower ground and ground level) comprising a total of 911 apartments, 2 retail premises, 989 parking spaces across 2 basement levels, a publicly accessible plaza and extensive landscaping works.		
Street address	34 - 42 Tallawong Road, Tallawong		
Notification period	15 December 2021 to 4 February 2022	Number of submissions	1

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> Capital investment value (CIV) over \$30 million (DA has a CIV of \$317,836,344 million).
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Precincts - Central River City) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No. 65- Design Quality of Residential Apartment Development Central City District Plan 2018 Blacktown Local Strategic Planning Statement 2020 Blacktown City Council Growth Centre Precincts Development Control Plan 2010
Report prepared by	Rachel Walker
Report date	4 October 2022
Recommendation	Approve, subject to deferred commencement conditions listed in attachment 10.

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 Issues raised by the public
- 8 Applicant's Clause 4.6 variation submission
- 9 Council's assessment of Clause 4.6 variation
- 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

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? Yes

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 proposal is inconsistent with the already approved Concept development application over the same site. However, the applicant has obtained legal advice, which confirms that this inconsistency can be addressed by imposing a condition that requires the applicant to surrender the Concept approval. This condition has been imposed accordingly, therefore this application is now being considered as a standalone development application.
 - the proposed buildings exceed the maximum permitted building height of 26 m. However, this is considered satisfactory as the exceedances relate to point encroachments of plant and equipment only. No residential units are proposed to exceed the height plane.
 - The proposal includes some non-compliances with the Apartment Design Guide, including building separation and common circulation areas. These variations are considered minor and are acceptable in the circumstances.
 - The proposal includes some non-compliances with Blacktown Growth Centres Development Control Plan including locations of deep soil zone, basement car park setbacks and depth of cut and fill. These variations are considered acceptable in the circumstances.
 - Transport for NSW concerns on traffic and parking are noted but are unreasonable for this applicant to address as they relate to modelling of the wider area road network. Also, the proposal is permissible in the zone, complies with the maximum car parking rate for the site and a satisfactory traffic report was submitted by the applicant.
 - A submission was received from an adjoining landowner (Sydney Metro). The issues raised have been satisfactorily addressed as the building setback to the southern boundary has now increased in the amended plans.
 - There is a Voluntary Planning Agreement that has been executed and is registered over the land titles for the subject site which requires a 2,200 m² publicly accessible plaza (which is to remain in private ownership), and compliance with a maximum car parking rate. This proposal complies with the key requirements of the Voluntary Planning Agreement which still applies to this Development Application also.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is therefore 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 as a deferred commencement consent subject to the recommended conditions listed at attachment 10.

2 Location

- 2.1 The site is located within the suburb of Tallawong. It is within the Riverstone East Precinct of the North West Growth Area as identified by State Environmental Planning Policy (Precincts - Central River City) 2021.
- 2.2 The site and the land to the north is zoned R3 Medium Density Residential. The land to the north has a permitted building height of 16 m, while the subject site consisting of 2 lots, has a permitted building height of 26 m.

- 2.3 West of the site is Tallawong Road and the railway stabling yard, which services the Sydney Metro Northwest rail link. The rail link is located to the south and south-east of the site.
- 2.4 The Tallawong Station Precinct adjoins the site to the east with a permitted building height of 26 m. The Precinct includes a Local Centre (under construction) and Tallawong Railway Station.
- 2.5 The land to the east and south-east is zoned R3 Medium Density Residential, B2 Local Centre and B4 Mixed Use.
- 2.6 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The site is legally known as Lots 8-9 DP 1249124, 34-42 Tallawong Road, Tallawong.
- 3.2 It is 4.048 hectare and generally rectangular in shape. It slopes up to 8 m from south-east to north-west. The site has frontage to Tallawong Road.
- 3.3 The site contains 2 existing single storey dwellings and associated driveways. A sales office is located on the southern lot (34 Tallawong Road) which was granted temporary approval on 7 June 2019.
- 3.4 The majority of the western and southern parts of the site are grassed and the southern area has been cleared of all remnant vegetation. Small groups of isolated trees are located along the shared boundary between 34 and 42 Tallawong Road, and towards the eastern boundary. The trees have been identified as being part of the Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest and extend onto the adjoining properties to the north and east.
- 3.5 An aerial image of the site and surrounding area is at attachment 2.

4 Background

4.1 Concept development application

- 4.1.1 On 13 September 2017, a Stage 1 Concept development application SPP-17-00028 was lodged for 9 building envelopes, comprising up to 630 apartments and 1 neighbourhood shop, 2 basement car parking levels, new public roads and public domain improvements.

On 9 November 2018, this application was approved by the Sydney Central City Planning Panel. The development consent is still valid until 9 November 2025.

4.2 Planning proposal and Voluntary planning agreement

- 4.2.1 On 12 September 2017, the owners of the site lodged a Planning Proposal LEP-17-0003 with Council seeking to increase the maximum building height control of the subject site from 16 m to 40 m.
- 4.2.2 On 13 November 2017, Council's Strategic Planning section advised the applicant that the proposal would not be supported and requested the planning proposal be amended to include the 3 adjacent lots to the north (Lots 65-67 DP30186) at 50-72 Tallawong Road to ensure consistency in building heights in this area.
- 4.2.3 In May 2018, in response to concerns raised by our Strategic Planning section about the proposed height, the proponent submitted a revised planning proposal seeking a maximum building height of 26 m, which is consistent with the height limits that apply to the future local centre to the east of the subject site.
- 4.2.4 The exhibited planning proposal related to all 5 lots at 34 – 72 Tallawong Road. Subsequently, concerns were raised by Transport for NSW and Sydney Metro in

relation to unknown impacts on the regional road network generated from the additional number of the dwellings due to the height increase.

- 4.2.5 To address concerns with traffic generation and car parking the planning proposal was reduced to:
- only cover the 2 lots that are the subject of this development application
 - introduce a site-specific clause into the, then, State Environmental Planning Policy (Sydney Region Growth Centres) 2006 that provides a maximum car parking rate for the site.
- 4.2.6 The proponent also requested an amendment to the Growth Centres Development Control Plan to delete a half-width road along the southern boundary of the site to resolve a discrepancy between the Riverstone East and Area 20 indicative layout plans. Specifically, a half-width road was shown on the Riverstone East Indicative Layout Plan affecting the subject land, but the other half of the road was not shown on the Area 20 Indicative Layout Plan, which predated Riverstone East. A condition was imposed on the Concept development application, which requires a publicly accessible pathway and landscaping to be installed in place. The approved setback to the site boundary was 15 m, which included a 9 m wide publicly accessible pathway with landscaping, in place of the deleted half-width road.
- 4.2.7 On 29 January 2019, the Department of Planning and Environment wrote to the Council and advised that the planning proposal shall be updated by the proponent to address the need for open space and community infrastructure for the additional residential yield.
- 4.2.8 In response, the applicant and Council entered a voluntary planning agreement that required a 2,200 m² parcel of open space to be publicly accessible but remain in private ownership. The voluntary planning agreement also included a restriction on the number of car parking spaces stating that 'the developer must not lodge a development application which proposes more off-street car parking spaces than the Roads and Traffic Authority Guide to Traffic Generating Developments recommends'. The voluntary planning agreement was executed on 14 September 2021 and applies to this development application as the Agreement applies to the land.
- 4.2.9 The Planning Proposal came into force on 30 September 2021, which increased the Height of Building control set out in State Environmental Planning Policy (Sydney Region Growth Centres) 2006 from 16 m to 26 m over the subject site, and introduced site-specific maximum car parking rate.
- 4.2.10 This was 3 years after the Concept development application was approved. At the time it was determined, the Planning Proposal was still in its early stages and its final form unknown.

4.3 Temporary Sales office development application

- 4.3.1 On 14 December 2018, the applicant lodged development application DA-18-02506 for construction of a temporary sales display office, associated signage landscaping and car parking. This was approved by Council under Delegated Authority on 7 June 2019 and is permitted to operate for 4 years from that date.

4.4 Subdivision development application

- 4.4.1 On 10 June 2020, DA-18-01599 was approved by Council under Delegated Authority for the demolition of the existing structures and subdivision in 2 stages to create 4 residential Torrens title lots with associated works including tree removal, earthworks, construction of 3 new roads and drainage infrastructure.

4.5 Briefing 1

- 4.5.1 The subject application was lodged on 4 January 2022.
- 4.5.2 On 17 February 2022, Council officers met with the Sydney Central Planning Panel to discuss the key issues that had been identified as part of their initial assessment, including the proposed building height and Clause 4.6 variation, the apartment mix and the submission received from the adjoining landowner (Sydney Metro) to the south.
- 4.5.3 The applicant has since submitted revised information to address these matters. During assessment of the revised application further issues were identified, with a key issue being that the proposal does not comply with the Concept development application already approved over the site.

4.6 Briefing 2

- 4.6.1 On 12 May 2022, Council officers again met with the Sydney Central Planning Panel to discuss the key issue of non-compliance of the application with the approved Concept development application and the reduced setback to the southern boundary shared with the Sydney Metro land.
 - 4.6.2 It was agreed that legal advice should be sought in relation to the implications of the revised application and whether a condition can be imposed to require surrender of the Concept approval. It was also noted that the southern boundary setback should achieve urban amenity objectives for buildings as well as be able to accommodate a pathway.
 - 4.6.3 Legal advice has been provided by the applicant and amended plans were received on 24 May 2022, which included an increased setback to the southern boundary that caters for a pathway on which we are basing this report.
- 4.7 The zoning and height of building maps are at attachment 3.

5 The proposal

- 5.1 The development application was lodged by CDG Pty Ltd - C/ Urbis for the construction of 9 residential flat buildings over 6 stages, 9 - 10 storeys each (including lower ground and ground level) comprising a total of 911 apartments, 2 retail premises, 989 parking spaces across two basement levels, a 2,200 m² publicly accessible plaza, and extensive landscaping works.
- 5.2 This report is based on amended architectural plans lodged on 24 May 2022 and stormwater concept and landscape plans submitted on 17 August 2022.
- 5.3 The proposal also includes demolition, tree removal, associated infrastructure works, construction of internal roads and connection to service utilities.
- 5.4 Other details about the proposal are at attachment 4, and a copy of the development plans is at attachment 5.

6 Assessment against planning controls

- 6.1 A full assessment of the development application against relevant planning controls is at attachment 6, including:
 - Environmental Planning and Assessment Act 1979
 - State Environmental Planning Policy (Biodiversity and Conservation) 2021
 - State Environmental Planning Policy (Planning Systems) 2021
 - State Environmental Planning Policy (Precincts - Central River City) 2021

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development
- Blacktown Local Strategic Planning Statement 2020
- Central City District Plan 2018.
- Blacktown City Council Growth Centre Precincts Development Control Plan 2010

7 Issues raised by the public

- 7.1 The proposed development was notified to property owners and occupiers in the locality between 15 December 2021 to 4 February 2022. It was also advertised on Council's website and a sign was erected on the site.
- 7.2 We received 1 submission from the adjoining land owner to the south, Sydney Metro.
- 7.3 The issues raised relate to building separation, overshadowing, access, inaccurate assumptions of future development of the adjoining land, and other urban design matters.
- 7.4 The submission was sent to the applicant to consider these matters. Following our Council officer's discussion with the applicant about the approved building separation under the Concept development application and the equitable distribution of building separation, amended plans were submitted on 24 May 2022 that increase the setback to the southern boundary from 6 m to 9 m. This report is based on these amended plans.
- 7.5 The revised application was renotified to the Sydney Metro for 14 days between 25 May and 9 June 2022. It provided a further submission, which noted that its previous submission was on 2 issues, as follows:
- Proposed building setback and positioning of buildings along the southern
Sydney Metro notes that the revised drawings now indicate a 9 m setback along the boundary, which results in increased solar access and provides for sharing of the building separation requirements equally across the boundary.
 - Assumptions for development outcomes on Lot 128 Tallawong Road
Concerns are still raised that that an assumed built form outcome on Lot 128 Tallawong Road may result in misleading information being published, as Landcom is yet to explore development of this site at this level of detail.
Sydney Metro requests that the indicative building envelope be removed from the architectural plans.
- 7.6 A summary of each issue and our response is at attachment 7.
- 7.7 The issues raised by Sydney Metro do not warrant refusal of the development application as the amended plans have now addressed this issue to Council's satisfaction.

8 Key issues

- 8.1 The proposed development is inconsistent with the approved Concept development application**
- 8.1.1 The current application is not consistent with the Concept development application approved by the Sydney Central Planning Panel. A modification application to the Concept development application has not been lodged to date.

8.1.2 Clause 4.24(2) of the Environmental Planning and Assessment Act 1979 states that:

While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.

8.1.3 The major differences between the Concept development application and the current application relate to:

- this proposal will have an increased building height
 - The proposed building height reflects the now in force Planning Proposal which increased the Height of Building Standard from 16 metres to 26 metres. However, the approved Concept development application included 9 residential flat buildings ranging between 5 and 6 storeys with a maximum height of 19.7 m (23% over the maximum) as supported by a Clause 4.6 variation.
 - There were parts of the proposed building envelopes that exceeded the height limit; including to the roofline and parapets, some portions of the habitable room areas, rooftop plant and equipment, and services to enable access to the rooftop communal open space areas.
 - However, the current application proposes a maximum building height of 28.08 m (8% over the maximum height approved by the Planning Proposal) for residential flat buildings ranging between 9 and 10 storeys with a Clause 4.6 variation request in respect of the height exceedance. (See 8.2 below for more details on the minor height variations).

- this proposal will have an increased apartment yield in this new proposal

The proposed number of apartments will now increase from 630 to 911 but only due to the Planning Proposal which increased the height.

- this proposal will change the building envelopes

The building envelope plan has changed, particularly in the southern precinct, where the 6 buildings are now in 2 linear rows with the communal open space traversing the middle, instead of enclosing the communal open space which was approved in the Concept development application.

- this proposal will have a decreased setback to the southern boundary

The approved Concept development application included a 15 m setback to the southern boundary, which comprised a 6 m setback to the 'block' boundary plus a 9 m setback to the lot boundary, an area which was previously identified in the Indicative Layout Plan for a half-width road.

The Concept approval included a condition which required the half-width road area to be deleted and replaced with a publicly accessible pathway and landscaping (including large trees) to provide benefit to future occupants of this site and the local community.

This publicly accessible pathway and landscaping was shown on the approved plans for the Subdivision DA (DA-18-01599), however, it has been excluded from this application. The setback to the lot boundary is now 9 m with a pathway included in this area which is located right on the boundary. This means the buildings are setback 9 m from the southern boundary rather than 15 m. This does not comply with the condition of the Concept approval,

however, this setback provides adequate building separation and pedestrian connectivity of the site.

- this proposal will include a public plaza

A publicly accessible plaza has now been included on the eastern side of the site. The Voluntary planning agreement executed concurrently with the Planning proposal requires a 2,200 m² parcel of open space in the site, which is to be publicly accessible but remain in private ownership. This was to cover an identified shortfall in local open space facilities.

This public plaza has now been included as part of this application.

- this proposal will have a reduction in Communal open space

The communal open space has been reduced from 11,995 m² under the Concept development application to 9,007 m² in this application. However, this area now includes public plaza.

- this proposal now deletes the rooftop communal open space which was previously on 3 of the buildings

- this proposal includes an additional neighbourhood shop

2 shops are now proposed instead of 1, with a corresponding increase in floor area.

- this proposal will change the basement car park

The basement carpark will increase in size and access arrangements have changed. The car parking spaces have also increased from 771 space to 989 spaces.

- 8.1.4 The applicant has provided legal advice, which confirms that a condition can be included in this consent requiring surrender of the Concept approval and then this development approval will become a standalone consent.

8.2 The proposed buildings exceed the maximum building height

- 8.2.1 The maximum building height of 26 m under State Environmental Planning Policy (Precincts - Central River City) 2021 is varied in this application to achieve a maximum height of 28.08 m (a variation of 8%). The variation relates only to lift cores, plant rooms and minor roof structures such as skylights, roof slab, parapets, plant fencing, and fire stairs at various points across the site.

- 8.2.2 These elements which exceed the maximum building height vary across each of the proposed 9 buildings. The maximum variation for each building is as follows:

- Building A = 28.08 m (maximum variation of 2.08 m or 8%) lift overrun
- Building B = 27.89 m (maximum variation of 1.9 m or 7.3%) lift overrun
- Building C = 27.70 m (maximum variation of 1.7 m or 6.5%) lift overrun
- Building D = 27.27 m (maximum variation of 1.27 m or 4.9%) lift overrun
- Building E = 27.45 m (maximum variation of 1.45 m or 5.6%) plant enclosure fence
- Building F = 27.18 m (maximum variation of 1.18 m or 4.5%) plant enclosure fence
- Building G = 27.10 m (maximum variation of 1.1 m or 4.3%) plant enclosure fence

- Building H = 27.15 m (maximum variation of 1.15 m or 4.4%) plant enclosure fence
 - Building J = 27.05 m (maximum variation of 1.05 m or 4%) plant enclosure fence
- 8.2.3 The applicant submitted a Clause 4.6 variation to Clause 4.3 of State Environmental Planning Policy (Precincts - Central River City) 2021 at Attachment 8
- 8.2.4 An assessment has been undertaken of the Clause 4.6 variation at Attachment 9 and it is considered reasonable and is recommended for support as it relates only to point encroachments and it will not result in any adverse impacts.

8.3 Non-compliances with the Apartment Design Guide

- 8.3.1 The proposal includes some non-compliances with the Apartment Design Guide, including building separation and common circulation areas. These variations are considered minor and are acceptable, and are further detailed below:
- 8.3.2 Building separation
- The Apartment Design Guide requires an 18 m separation distance between habitable rooms/balconies for buildings 5 to 8 storeys/up to 25 m. The non-compliances are outlined below:
 - Buildings H and J are proposed to have a 14 m separation distance between habitable rooms/balconies for Levels 5 to 8. To address this non-compliance, the following amendments were made:
 - Windows falling within the 18 m separation have been reoriented and replaced by a blank wall
 - Balconies falling within 18 m separation have been visually isolated by providing fixed privacy screens.
 - The Apartment Design Guide requires 24 m separation between habitable rooms/balconies for buildings 9 storeys and above/over 25 m. The non-compliances which relate only to the 9th storey are outlined below:
 - Buildings B and C are proposed to have a 20.4 m separation distance between balconies
 - Buildings H and F have a separation distance of 19.5 m between balconies, a privacy screen is proposed for Building H on the eastern elevation
 - Buildings H and J are proposed to have a 21.8 m separation distance between balconies
 - Buildings J and G are proposed to have a 20 m separation distance between balconies a privacy screen is proposed on Building G on the eastern elevation
 - Buildings G and E are proposed to have a 20 m separation distance between balconies, a privacy screen is proposed for Building G on the western elevation.
 - These separation distances are still effective and adequate to maintain privacy and noise separation.
 - Council's City Architect provided comments on the originally submitted plans, requiring these minor non-compliances to be addressed, particularly in relation to visual and acoustic privacy. The revised plans which now include the

privacy screens and reorientation of windows have been reviewed by the City Architect who is satisfied that this addresses the previous concerns.

8.3.3 Common circulation areas

- The Apartment Design Guide requires, for corridors greater than 12 m from the lift core to be articulated by more foyers, or wider areas/higher ceiling heights at apartment entry doors.
 - Corridors within the proposed development are generally 12 m in length. Where corridors are longer than 12 m they generally contain a corner and include natural light slots, which is considered acceptable to met this articulation requirement.

8.4 Non-compliances with Blacktown Growth Centres Development Control Plan

8.4.1 The proposal includes some non-compliances with the Blacktown Growth Centre Precincts Development Control Plan including deep soil zone locations, basement car park setbacks and cut and fill. There are further detailed below:

- Deep soil zones
 - The Development Control Plan requires the first 3 m of the side and rear setback to be a deep soil zone
 - A deep soil zone of 6 m is proposed along all boundaries of the Southern Precinct containing proposed Buildings D, E, F, G, H and J.
 - The Northern Precinct containing proposed Buildings A, B and C complies, apart from the southern boundary where the basement car park encroaches the rear setback area. The other side setbacks and the front setback are deep soil zones. This is considered acceptable as the front setback has been included as deep soil rather than the rear setback.
- Basement car park setbacks
 - The Development Control Plan requires basement and basement parking to be clear of setback areas.
 - The Northern Precinct basement is located within the southern boundary setback, however, is setback from all other sides. This is considered acceptable.
- Cut and fill
 - The Development Control Plan requires a maximum of 500 mm cut/fill.
 - In excess of 500 mm of cut is necessary for the basement construction. This is considered acceptable as the basement is required for the proposed development to provide plant rooms, storage space, on-site parking and to achieve in-basement waste collection.

8.5 Transport for NSW objection

8.5.1 The development application was referred to Transport for NSW for comment in line with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 (in force at the time).

8.5.2 Transport for NSW reviewed the application and provided a response that noted its previous concerns on the adequacy of the traffic impact assessment that accompanied the Planning proposal. Transport for NSW has requested that a comprehensive traffic impact assessment be undertaken to address the concerns previously raised.

- 8.5.3 It should be noted that, when the planning proposal was exhibited, both Transport for NSW and Sydney Metro raised concerns on unknown impacts on the regional road network generated from the additional number of the dwellings due to the height increase.

To address concerns with traffic generation and car parking the Planning proposal was reduced to:

- only cover the 2 lots which are the subject of this DA
- introduce a site-specific clause into the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (in force at the time) that provides a maximum parking rate for the site.

- 8.5.4 A traffic impact assessment, prepared by Stantec, was submitted in support of this application. In its report, Stantec concludes that the traffic generation associated with the proposal represents a 0.25% increase on what was previously assessed as part of the Planning proposal, which is negligible and very much within typical daily variations in traffic volumes.

- 8.5.5 The proposed development will provide 807 residential spaces and 182 visitor spaces which complies with the minimum parking rate under the Apartment Design Guide and the maximum car parking rate included in the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 - now part of the State Environmental Planning Policy (Precincts - Central River City) 2021.

- 8.5.6 Our Traffic section has reviewed the proposal as well as Transport for NSW's request for a new comprehensive traffic impact assessment. Our Traffic section has, however, advised that this is an unreasonable request for individual developers to do modelling on the wider surrounding road network. Further this should have been addressed by the Department of Planning and Environment in the Planning Proposal when it increased the building height in this area.

- 8.5.7 It is therefore considered that no further traffic assessment is required by the applicant for this proposal.

8.6 Voluntary Planning Agreement

- 8.6.1 There is a Voluntary Planning Agreement that was executed on 14 September 2021 and is registered over the land titles for the subject site. This was related to the Planning Proposal that increased the height control.

- 8.6.2 The Voluntary Planning Agreement has 2 key requirements:

- A 2,200sqm publicly accessible plaza (which is to remain in private ownership)
- 'the developer must not lodge a development application which proposes more off-street car parking spaces than the Roads and Traffic Authority Guide to Traffic Generating Developments recommends'.

- 8.6.3 This proposal complies with the terms of the Voluntary Planning Agreement which will still be valid and apply to this development application as the Agreement applies to the land.

9 External referrals

- 9.1 The development application was referred to the following external authorities for comment:

Authority	Comments
Endeavour Energy	Acceptable subject to conditions.
Rural Fire Service	Acceptable subject to conditions.
Roads and Maritime Services	Roads and Maritime Services has advised we refer the application to Sydney Metro as the authorised delegate of the Secretary to deal with development matters adjacent to the Sydney Metro network.
Transport for NSW	Refer commentary at Section 8.3 above.
Natural Resources Access Regulator	Natural Resource Access Regulator advised Council that controlled activity approval is not required and no assessment required. A referral was made to Water NSW instead, see below.
Sydney Water	Sydney Water advise that the trunk potable water, recycled water and wastewater networks should have adequate capacity to accommodate the proposed development. Detailed requirements will be provided once the development is referred to Sydney Water for a Section 73 application.
Sydney Metro	No comments and no conditions required (in its capacity as an authority not an adjoining owner).
WaterNSW	General Terms of Approval provided.
Riverstone Police Area Command	Acceptable subject to conditions.

10 Internal referrals

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

Section	Comments
Building	Acceptable subject to conditions
Engineering	Acceptable subject to conditions
Traffic	No objections
Drainage	Acceptable subject to deferred commencement conditions
Strategic Planning	Comments provided
Property	No objections
City Architect	<p>The application has been the subject of ongoing review by the City Architect since its lodgement,</p> <p>Based on the review by the City Architect, the following comments were provided to the applicant to address and provide additional information:</p> <ul style="list-style-type: none"> Level information at the site boundary/street to enable assessment of the apartment ground floor interface. This is to

Section	Comments
	<p>demonstrate an acceptable level of amenity and accessibility to the ground level apartments and entry lobbies.</p> <ul style="list-style-type: none"> Building materiality and articulation is generally acceptable, it is of a high quality and achieves the objectives of the Apartment Design Guide. However, concern was raised about the level of repetition of the site. Each building attempts to achieve slight variation in design, architectural details and materials, whilst falling within the scope of an overall “design philosophy” for the entire site. More can be done however to enhance the individualised expression Minor non-compliance noted with the building separation requirement between habitable spaces of building H and J, needs to be addressed. Privacy issues at ground level apartments adjacent to building entry corridors with bedroom windows adjacent to walkways with no means of addressing privacy. Numerous apartments have been included in the natural ventilation calculations that are single aspect units. A suitably qualified engineer is required to provide advice confirming that these units achieve adequate ventilation in accordance with the Apartment Design Guide. <p>Following the submission of the amended plans and Natural Ventilation Statement on 24 May 2022 our City Architect advised that the amendments have addressed the concerns previously raised and raises no objections to the proposal.</p>
Waste	Acceptable subject to conditions
Environmental Health	Acceptable subject to conditions
Recreation Planning	Acceptable subject to conditions
Open Space	Acceptable subject to conditions
Natural Areas	Acceptable subject to conditions
Heritage	No objections
S7.11 Contributions	The S7.11 team have advised that the executed Voluntary Planning Agreement which has been registered against the land titles for the subject site applies to this development, and remains valid. Conditions have been provided which require compliance with the obligations of the Voluntary Planning Agreement and the payment of S7.11 contributions.

11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is considered to be satisfactory. 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 subject to conditions.

12 Recommendation

- 1 Uphold the variation to the height of buildings development standard in Clause 4.3 of State Environmental Planning Policy (Precincts - Central River City) 2021 using Clause 4.6 for the following reasons:
 - a Adherence to the height standard is unnecessary in this instance as no adverse impacts will result from the minor variation to the building height.
 - b The proposed areas that exceed the height do not result in excessive bulk and scale and do not create unreasonable environmental impacts on the surrounding area with regard to solar access, overshadowing, amenity or privacy impacts.
- 2 Approve Development Application SPP-21-00013 for the reasons listed below, as a deferred commencement consent and subject to the conditions listed in attachment 10.
 - a The requested Clause 4.6 variation is acceptable [section 4.15 (1) (a) (i) EP&A Act 1979].
 - b The site is suitable for the proposed development [section 4.15 (1) (c) EP&A Act 1979].
 - c The proposal is in the public interest [section 4.15 (1) (e) EP&A Act 1979].
- 3 Council officers notify the applicant and the submitter of the Panel's decision.



Rachel Walker
Town Planner



Judith Portelli
Acting Director City Planning and Development