

Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-408

Development application

DA number	SPP-22-00009	Date of lodgement	7 November 2022
Applicant	Pelican 88 Development Pty Ltd		
Owner	Pelican 88 Development Pty Ltd		
Proposed development	Subdivision into 2 super lots with construction of 2 public roads and 7 x 5-storey residential flat buildings (308 apartments), associated basement car parking for 457 cars, with civil works and landscaping, over 3 stages.		
Street address	60 Pelican Road, Schofields		
Notification period	7 December 2022 to 12 January 2023	No. of submissions	Nil

Assessment

Panel criteria Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021	<ul style="list-style-type: none"> General development: Development that has a capital investment value of more than \$30 million. This development application has a capital investment value of \$87,923,198.
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> 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 City Council Growth Centre Precincts Development Control Plan 2010 Blacktown Local Strategic Planning Statement 2020 Central City District Plan 2018.
Report prepared by	Bertha Gunawan
Report date	4 October 2023
Recommendation	Approval, subject to conditions listed in attachment 9.

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 Council's assessment of Clause 4.6 variation

- 8 Applicant's Clause 4.6 variation submission
- 9 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 key issues that need to be considered by the Panel in respect of this application are:
- The application proposes a 29.4% (4.7 m) variation to the maximum building height control of State Environmental Planning Policy (Precincts - Central River City) 2021. The 5-storey buildings comply with the 16 m building height with the exception of:
 - Point encroachments for the lift overruns, rooftop communal open space on Building C.
 - Ceiling habitable space of certain units in Buildings B and C.
 - Roof parapets for Buildings A, B, C, D and E.
- A variation request under Clause 4.6 of the State Environmental Planning Policy has been provided and is considered to be well-founded and should be supported.
- Our proposed condition of consent requiring the courtyard area on the ground floor of Building B to be set back further to achieve a compliant 12 m building separation from a master bedroom in the ground floor unit of Building A to increase privacy between neighbours. This is achievable and can be done as a pre-construction certificate matter.
- 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 subject to the recommended conditions listed in attachment 9.

2 Location

- 2.1 The site is located in Schofields within the Alex Avenue Precinct of the North West Growth Area, bounded by Railway Terrace and Isla Street.
- 2.2 The site is located on the north-eastern end of Pelican Road, which continues to the east as Jacqui Avenue. The site also has a secondary frontage to Jerralong Drive on its northern boundary.
- 2.3 Schofields Railway Station is located approximately 500 m west of the site.
- 2.4 The location of the site is shown at attachment 1.
- 2.5 The site is zoned R3 – Medium Density Residential and SP2 – Local Road, under State Environmental Planning Policy (Precincts – Central River City) 2021. The proposed development is permissible with consent.
- 2.6 The surrounding land to the north is zoned SP2 Drainage, land to the east and south is also zoned R3, whilst the adjoining site (62 Pelican Rd) to the west is B4 – Mixed Use zoned land. The lands further to the west is zoned B2 – Local Centre and RE1 – Public Recreation.
- 2.7 The zoning plan for the site and surrounds is at attachment 3.
- 2.8 The adjoining land to the east is currently under construction for residential flat buildings. The business zoned land to the west is currently unimproved.

3 Site description

- 3.1 The site is legally described as Lot 66 DP 1202497 or 60 Pelican Road, Schofields.

- 3.2 The site area is 2.198 ha. It has also been cleared of any structures and vegetation including all trees.
- 3.3 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 The Sydney West Joint Regional Planning Panel approved a previous application for this site (JRPP-14-1105) on 18 December 2015. It proposed tree removal, construction of public roads, a 2-lot residue subdivision, and construction of 5 residential flat buildings with 322 apartments over basement car parking.
- 4.2 The current application was lodged on 7 November 2022, and provides for:
- A reduction in the number of units from 322 to 308.
 - A reduction in on-site parking from 474 to 457 space.
- The application was notified between 7 December 2022 and 12 January 2023.
- 4.3 Requests for information were sent to the applicant as follows:
- 9 January 2023 (drainage and design issues).
 - 18 January 2023 (waste issues).
 - 1 February 2023 (biodiversity issues).
 - 23 February 2023 (development engineering issues). This included advice that Pelican Road was not in good enough condition to sustain any more traffic until the construction of Jacqui Avenue is completed. The proposed development was therefore required to provide a temporary turning head at the intersection of Pelican Road and Jacqui Avenue to service its future construction and alleviate additional construction traffic on Pelican Road.
- 4.4 A kick-off briefing was held with the Sydney Central City Planning Panel on 23 February 2023.
- 4.5 The applicant submitted a response to our Requests for information on 24 March 2023.
- 4.6 On 12 May 2023, our development engineer reconfirmed to the applicant that the required temporary turning head would not be necessary if the timing of development could be achieved to coincide with the completion of Jacqui Avenue, estimated to be mid-2026. A condition of consent is recommended to allow the final occupation certificate to be issued only when Jacqui Avenue is dedicated as a public road.
- 4.7 Two further requests for information on 26 May 2023 (in relation to the extent of deep soil provisions) and 8 June 2023 (relating to drainage matters) were sent to the applicant. The applicant responded to those requests on 5 July 2023 and 22 June 2023, respectively.
- 4.8 The applicant also submitted a revised building height plane plan on 21 August 2023 to ensure consistency with the building height assessment under their Clause 4.6 justification request.
- 4.9 On 31 August 2023, the applicant was advised to submit a detailed site investigation report, as the submitted preliminary site investigation report concluded a significant data gap in the investigation for site contamination. Two preliminary investigation reports were subsequently submitted, with the later one (submitted on 11 September 2023) concluding that the site is suitable for the proposed residential development.
- 4.10 The application included a bushfire planning advice to state that the site is no longer considered bushfire prone. We sought confirmation from NSW Rural Fire Service, and NSW's ePlanning Spatial Viewer used to confirm that the site is currently not considered a

bushfire prone land. The proposal therefore does not require a referral to NSW Rural Fire Service under Section 4.14 of the Environmental Planning and Assessment Act 1979.

- 4.11 The current proposed development is based on the latest plans dated 24 March 2023, which were submitted by the applicant on 3 April 2023.

5 The amended proposal

- 5.1 The development application was lodged by Pelican 88 Pty Ltd on 7 November 2022. However, the amended plans on which this report is based on the plans dated 24 March 2023 which were submitted on 3 April 2023.
- 5.2 The applicant still proposes to develop the site in 3 stages:
- 5.2.1 Stage 1 includes subdivision into 2 super lots and construction of public roads including a half width road (linking Pelican Road to Jerralong Drive) and a full width public road between proposed lots 1 and 2 (to form part of Manchester Drive), civil works and street tree planting.
- 5.2.2 Stage 2 includes the construction of 3 x 5-storey buildings (buildings A, B and C) on Proposed Lot 2 (6,064 m² in area on the northern precinct facing Jerralong Drive), which will accommodate a total of 130 residential apartments with 175 basement car parking spaces.
- 5.2.3 Stage 3 includes the construction of 4 x 5-storey buildings (buildings D, E, F and G) on Proposed Lot 1 (8,259 m² in area on the southern precinct facing Pelican Road), which will accommodate a total of 178 residential apartments with 282 basement car parking spaces.

Overall the proposal provides for 7 residential buildings comprising 308 units and 457 on-site parking spaces.

- 5.3 The proposed 7 residential flat buildings will exceed the maximum building height control of 16 m by up to 4.7 m, but only in relation to:
- The point encroachments for the lift overruns, rooftop communal open space on Building C.
 - Ceiling habitable spaces of some units in Buildings B and C.
 - The roof parapets of Buildings A, B, C, D and E.

A clause 4.6 variation request has been submitted in support of these variations by the applicant for our consideration.

- 5.4 Other details about the proposal are at attachment 4, a copy of the development plans is at attachment 5, and a copy of the applicant's Clause 4.6 request is at attachment 8.

6 Assessment against planning controls

- 6.1 A full assessment of the development application against relevant planning controls is provided at attachment 6, including:
- Environmental Planning and Assessment Act 1979.
 - State Environmental Planning Policy (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 City Council Growth Centre Precincts Development Control Plan 2010.
- Blacktown Local Strategic Planning Statement 2020.
- Central City District Plan 2018.

7 Issues raised by the public

- 7.1 The proposed development was notified to 608 properties in the locality between 7 December 2022 and 12 January 2023. The development application was also advertised on the 'Have your say' section of our website and a sign was erected on the site.
- 7.2 We received no submissions.
- 7.3 It should be noted that the latest amended plans submitted on 3 April 2023 did not necessitate a re-exhibition as the amendments were mainly related to civil design, revised tree species and additional entry points to the ground floor units from the communal areas.

8 Key issues

8.1 The applicants' proposed variation to the maximum building height limit is acceptable as it will not increase residential density

- 8.1.1 State Environmental Planning Policy (Precincts - Central River City) 2021 (SEPP) prescribes a maximum building height of 16 m but the proposed development exceeds this, proposing a 20.7 m maximum building height.
- 8.1.2 The majority of the building form will be contained below the maximum permitted height limit with the exception of the lift overruns, the rooftop communal open space, small areas of the ceiling in habitable spaces of certain units only and roof parapets.
- 8.1.3 The proposed maximum departure to the height plane will be only a point encroachment being at its highest point, 4.7 m (a 29.4% variation) to the top of the lift overrun servicing the rooftop communal open space on Building C. The proposed open space will be situated at the roof level of Building C with an area of 502.4 m² (3.5% of the site area).
- 8.1.4 Point encroachments to top of the lift overruns are also proposed on the other buildings ranging in height of between 1 m and 1.3 m (6% - 8.1% variation). Other height variations are also proposed to the roof parapets between 0.5 m and 1.5 m (3.1% - 9.4% variation), which include variations to the ceiling heights up to 0.7m above the 16m height limit.
- 8.1.5 Accordingly, a request to vary to the height plane development standard under Clause 4.6 of the SEPP is required to address all these circumstances and was provided by the applicant covering all of these variations.
- 8.1.6 The variations are all considered to be reasonable in the circumstances and should be supported as:
- The lift overruns are contained in the central area of the roof level, therefore representing only point encroachments into the height plane.
 - The parapet roof encroachments are not highly visible from the street and do not create habitable spaces.

- The proposed minor encroachments from the ceiling areas of habitable spaces are limited in Buildings B and C, which is offset by Buildings D, F and G.

8.1.7 Our analysis of the applicant's Clause 4.6 submission is at attachment 7 and a copy of the applicant's submission is at attachment 8.

8.2 We propose a condition of consent to achieve the required compliance of 12 m building separation between buildings A and B

8.2.1 Control 2F under the Apartment Design Guide (ADG) requires the provision for a 12m building separation between habitable rooms/balconies (up to 4 storeys).

8.2.2 This control has not been met with regard to the proposed courtyard area for Unit B006 in Building B and the master bedroom of Units A004 in Building A. The proposed building separation is currently at 11.825 m.

8.2.3 It is therefore reasonable to require the applicant to reduce the depth of the courtyard area of Apartment B006 on the ground floor to achieve a compliant building separation from the bedroom of Apartment A004. This will increase privacy, given this courtyard area is also located 2.4 m higher than the bedroom.

8.2.4 As a result of this required change, the courtyard area of Unit B006 will no longer comply with the 3 m depth (currently 3.041 m and will be reduced to 2.7 m), but because of its length, it will still achieve a compliant size of 18.8 m² (minimum requirement is 15 m²).

8.2.5 On this basis, the minor variation to the courtyard dimension for proposed apartment B006 on the ground floor should still be supported as it is still larger in size than the minimum area required and it will ensure that 12m building separation rule is still met.

9 External referrals

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

Authority	Comments
Riverstone Police Area Command	Acceptable, subject to conditions.
Transport for NSW (the proposal is considered a traffic-generating development as it is proposing more than 300 dwellings and including a subdivision that creates a new public road)	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
Open Space	Acceptable, subject to conditions.

Section	Comments
Building	Conditions provided.
Drainage and Development Engineers	Acceptable, subject to conditions.
Section 7.11 Infrastructure	Acceptable, subject to conditions.
Biodiversity	Acceptable.
Waste	Acceptable, subject to conditions.
Urban Design	Acceptable.
Environmental Health	Acceptable, subject to conditions.
Property	Acceptable.
Traffic	<p>Acceptable, subject to conditions.</p> <p>Note: the proposed half-width road at 5.5m along the western boundary linking Jerralong Drive and Pelican Rd/Jacqui Ave will be capable to allow a 2-way traffic until the full width road is constructed (this includes car, waste and removal trucks entering and exiting the basement car parking ramps from this half road, which is also confirmed to be acceptable by Council's waste officer). This is also acknowledging the inclusion of 4.5 m wide pavement construction along the western street boundary of Lots 1 and 2.</p> <p>Consent conditions to be imposed will include 'NO PARKING' signs on both sides of the half-width road and line marking plan which will be required for approval by Council's Local Traffic Committee before the issue of any Construction Certificate to ensure the safe manoeuvrability of all large rigid trucks into and out of the site over this half road. "GIVE WAY" signs will also be required to be mounted along the exiting side of the driveways to warn potential incoming vehicles, and line-marked on the pavements as additional safety warnings.</p>
Section 7.11 Contributions	Acceptable, subject to conditions.

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 Disclosure of political donations and gifts

- 12.1 Under Section 10.4 of the Environmental Planning and Assessment Act 1979, a disclosure statement must be lodged in certain circumstances in relation to any planning application, i.e. a development application, an application to modify a consent and an application to make an environmental planning instrument or development control plan.

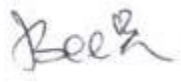
- 12.2 A disclosure statement of a reportable political donation or gift must accompany a planning application or submission (including a submission either objecting to or supporting the proposed development) if the donation or gift is made within 2 years before the application or submission is made. If the donation or gift is made after the lodgement of the application, a disclosure statement must be sent to Council within 7 days after the donation or gift is made. The provision also applies to an associate of a submitter.
- 12.3 A disclosure statement may be made available for viewing upon a written request to Council in line with Section 12 of the Local Government Act 1993.
- 12.4 Disclosures:
- Political donations Has a Disclosure statement been received in relation to this application? No
 - Gifts Have staff received a 'gift', that needs to be disclosed, from anyone involved with this application? No

13 Recommendation

- 1 Uphold the applicant's Clause 4.6 request for minor point encroachment variations to the maximum building height, for the following reasons:
 - a The proposal still meets the objectives of the zone.
 - b The development is consistent with the local area's desired character.
 - c No extra residential density will be provided above the designated height plane.
 - d The height limit of 16 m envisages a building of 5 storeys and this still will be achieved.
 - e The additional height will not be prominent and will not contribute to unreasonable bulk and scale.
- 2 Approve SPP-22-00009 for the reasons listed below, and subject to the conditions listed at attachment 9:
 - a The proposal results 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 (Precincts - Central River City) 2021 to vary the maximum height of buildings development standard is well founded. Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case 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 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 The proposal is in the public interest as it will provide additional housing to meet the growing demand for residential developments in the area (Section 4.15(e) of the Environmental Planning and Assessment Act 1979).
- 3 Council officers notify the applicant of the Panel's decision.

14 Declaration and endorsement

We, the undersigned, declare, to the best of our knowledge that we have no interest, pecuniary or otherwise, in this development application or persons associated with it; and we have provided an impartial assessment.



Bertha Gunawan
Senior Town Planner



Judith Portelli
Manager Development Assessment



Peter Conroy
Director City Planning and Development