

# Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-432

## Development application

<b>DA number</b>	SPP-23-00037	<b>Date of lodgement</b>	7 March 2023
<b>Applicant</b>	Universal Property Group Pty Limited		
<b>Owner</b>	52 Upg Pty Ltd		
<b>Proposed development</b>	Stage 1 - subdivision into 3 super lots, public roads and site works, Indicative Layout Plan road pattern variation. Stage 2- construction of 177 x 2 storey multi dwelling units with 303 parking spaces, construction of internal private roads and landscaping over proposed Lots 1 to 3.		
<b>Street address</b>	1578, 1580, 1584 and 1586 Windsor Road, Vineyard		
<b>Notification period</b>	21 June to 5 July 2023	<b>Number of submissions</b>	1

## Assessment

<b>Panel criteria</b> Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021	<ul style="list-style-type: none"> <li>Development with Capital investment value (CIV) of more than \$30 million. The proposal has a CIV of \$38,512,782.</li> </ul>
<b>Relevant section 4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>Environmental Planning and Assessment Act 1979.</li> <li>State Environmental Planning Policy (Precincts - Central River City) 2021.</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021.</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021.</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.</li> <li>Blacktown Growth Centres Development Control Plan 2010.</li> <li>Central City District Plan 2018.</li> <li>Blacktown Local Strategic Planning Statement 2020.</li> </ul>
<b>Report prepared by</b>	Luma Araith
<b>Report date</b>	9 August 2023
<b>Recommendation</b>	Refusal, for the reasons listed in this report.

## Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development application plans

## 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
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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?	Not applicable
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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (section 7.24)?	Yes
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## **1 Executive summary**

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- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- The proposal does not comply with the designated road pattern for the site shown on the Growth Centres Indicative Layout Plan for the Riverstone Precinct Development Control Plan supporting the State Environmental Planning Policy - (Precincts - Central River City) 2021.
  - The new development will be landlocked. Access to the site is currently off Windsor Road but these driveways are only allowed to service the existing dwellings and business fronting Windsor Road. Upon redevelopment in accordance with the Growth Centres Development Control Plan the access is to be via a new internal designated road pattern, not Windsor Road.
  - The proposal includes a subdivision to create roads and super lots but it is not documented in the development application or Statement of Environmental Effects.
  - Transport for NSW and our Traffic Engineer do not support the proposed development as the traffic impact assessment has not been adequately addressed.
  - The applicant has not obtained owner's consent (Blacktown City Council) in relation to the construction of drainage on adjoining land.
  - The site contamination report is dated 26 June 2018. The applicant has not satisfied Clause 4.6 of Resilience and Hazard State Environmental Planning Policy to confirm the site is suitable for this development.
  - There will be substantial tree removal and the arboricultural report is 5 years old.
  - Insufficient information has been provided to enable a full and complete assessment of the proposed house products against the Growth Centres Development Control Plan 2010 including the proposed land titling of the development.
  - Insufficient information has been provided to enable proper assessment of development in relation to drainage and engineering issues.
  - Insufficient information has been provided to enable a proper assessment of the waste management for the proposed development.
  - Insufficient information has been provided to enable a proper assessment by NSW Rural Fire Service.
- 1.2 The above issues of concern cannot be dealt with by conditions.
- 1.3 On this basis, the application is considered to be unsatisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel refuse the application for the reasons listed in the Recommendation at section 13 of this report.

## **2 Location**

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- 2.1 The site is located between Windsor Road and O'Connell Street and south of Bandon Road within the Riverstone Precinct of the North West Growth Area.
- 2.2 The site has an area of 4.227 ha with a street frontage to Windsor Road of approximately 190 m.
- 2.3 The surrounding area is predominantly zoned R2 Low Density Residential or SP2 - Drainage, Classified Road or Educational Establishment under State Environmental Planning Policy (Precincts - Central River City) 2021.

- 2.4 The adjacent site to the north-west is occupied by a single storey commercial building fronting Windsor Road as well as the Vineyard Public School, which also has frontage to Bandon Road. Development to the north-east consists of predominantly rural residential properties on larger lots fronting Windsor Road. A separate shared pedestrian and cycle pathway abuts the Windsor Road frontage of the site.
- 2.5 Lots to the south (the rear of the site) front O'Connell Street are vacant and densely vegetated with large trees.
- 2.6 The location of the site is shown at attachment 1.

### **3 Site description**

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- 3.1 The development site comprises of Lots 21, 22 and 23 in DP 1224519 and Lot 1 in DP 224731 and is known as 1578, 1580, 1584 and 1586 Windsor Road, Vineyard.
- 3.2 The site is part zoned R2- Low Density Residential and part SP2 - Classified Road under State Environmental Planning Policy (Precincts - Central River City) 2021. The zoning plan for the site surrounds is at attachment 3.
- 3.3 The site is located on the south-western side of Windsor Road. The highest point is centrally located at approximately RL 27 and slopes down towards Windsor Road to approximately RL 23 and towards the rear of the site to RL 21.
- 3.4 The site is occupied by an existing local retail building (mower shop) and 3 dwelling houses and associated outbuildings. Vehicular access to the site is provided via existing driveways off Windsor Road only intended for the current existing uses not for any redevelopment of the site.
- 3.5 An aerial image of the site and surrounding area is at attachment 2.

### **4 Background**

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- 4.1 SPP-18-01551 was lodged on 17 September 2018 for consolidation of 4 existing lots and the subdivision of the consolidated land into 4 superlots (3 residential and 1 SP2 drainage), public roads with associated construction of private roads, drainage, private open space, landscaping and the construction of 191 multi dwelling units in stages. That application also proposed a variation to the Indicative Layout Plan to delete one proposed public road. The applicant appealed against the deemed refusal on 30 October 2018, but the application was later withdrawn on 31 January 2020.
- 4.2 Demolition of existing structures was approved on 14 February 2019 under DA-19-00086.
- 4.3 The applicant lodged the current application on 7 March 2023. Since that time, the applicant has:
  - Been advised of various issues, including with the incorrect placement of the road pattern in the State Environmental Planning Policy (Precincts- Central River City) 2021, Indicative Layout Plan on the architectural plans. We wrote to the applicant on 15 and 27 March 2023, 3, 27 and 28 April 2023, and 3 and 12 May 2023. We also forwarded emails on 15 March 2023 and 4 April 2023.
  - Submitted some information on 4 April 2023 in response to some of our Waste, Open Space/Sport and Recreation Section and planning issues in the correspondence listed above, but this information was still unsatisfactory.
  - Lodged a Class 1 Appeal against the deemed refusal of the application with the NSW Land and Environment Court on 2 June 2023. The Section 34 conference is listed for 20 October 2023.

## 5 The proposal

5.1 The development application was lodged by Universal Property Group Pty Ltd.

5.2 The applicant proposes:

- Construction of 177 multi dwelling units consisting of 21 x 3-bedroom dwellings, 146 x 4-bedroom dwellings, 10 x 5-bedroom dwellings with 303 car parking spaces.
- Construction of public roads.
- Relocation of ILP roads.
- Partial deletion of a section of ILP road.
- Construction of internal private roads.
- Stormwater drainage and site works.
- Landscaping works.
- Temporary Access for construction work only over adjoining Department of Education land.
- Underground onsite stormwater detention and a drainage basin within Council land next door without owner's consent.

5.3 Note that the application is silent about the resubdivision of all these sites necessary to create the 3 proposed super lots or to dedicate the public roads.

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 summary assessment of the development application against the section 4.15(1)(a) matters is provide below but only for those planning controls that directly relate to its refusal.

### 6.2 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment
a. The provisions of: (i) Any environmental planning instrument	<p>The proposal is not consistent with the relevant environmental planning instruments including the provisions of 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 and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 for the following reasons:</p> <ul style="list-style-type: none"> <li>• Insufficient and inadequate information has been submitted to enable complete assessment of the application.</li> <li>• The Contamination consultant report and Tree Assessment report are 5 years old and reliance on them is questionable. On this basis we cannot rely on these reports to inform our assessment of this application.</li> <li>• The proposal has not provided compliant stormwater and waste services provision on the site and therefore we cannot determine if the site can adequately cater for this development.</li> </ul>

Heads of Consideration	Comment
	<ul style="list-style-type: none"> <li>• Transport for NSW does not support the application in its current form and requested amendments and additional information from the applicant which has not yet been received.</li> <li>• Civil engineering plans submitted show a proposed Basin 1 (Temporary OSD and Bio Basin) constructed on part of Lots 18 and 19 in DP 1224519 which is land owned by Council for a drainage reserve next door to this site. However, Council has not given owner's consent to lodge the DA or carry out development on its land.</li> <li>• The proposal does not address permanent access to the site. The DA relies on temporary extension of proposed Road 1 to Bandon Road through Lot 24 in DP 1224519, owned by the NSW Department of Education for construction purposes only. Whilst School Infrastructure NSW has given its consent to the lodgement of the DA and provided a copy of a Deed of Temporary Access, this deed only relates to a temporary access arrangement and does not facilitate a permanent extension of Road 1 to Bandon Road post development for ongoing use and access to any future completed development. This has also been raised by Transport for NSW.</li> <li>• The BASIX Certificate indicates that rainwater tanks, air conditioning and the like are required for each dwelling, but no details have been provided on the architectural plans and the BASIX certificate is out of date.</li> </ul>
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	<p><b>Draft State Environmental Planning Policy (Environment)</b></p> <p>The draft State Environmental Planning Policy (Environment) was exhibited between October 2017 and January 2018 and seeks to simplify the NSW planning system and reduce complexity without reducing the rigour of considering matters of State and Regional significance.</p> <p>The draft policy effectively consolidates several State Environmental Planning Policies including:</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy 19 Bushland in Urban Areas,</li> <li>• State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011,</li> <li>• Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River (No. 2 - 1997),</li> <li>• Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment,</li> </ul> <p>and removes duplicate considerations across Environmental Planning Instruments.</p> <p>The proposal is inconsistent with this draft instrument as discussed in section (i) above.</p>
	<p><b>Draft State Environmental Planning Policy (Remediation of Land)</b></p> <p>The draft State Environmental Planning Policy (Remediation of Land) was exhibited from January to April 2018 with the intent that it repeals and replace State Environmental Planning Policy</p>

Heads of Consideration	Comment
	<p>55 - Remediation of Land (SEPP 55) in relation to the management and approval pathways for contaminated land.</p> <p>SEPP 55 has since been repealed and its provisions were consolidated into State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 4. However, Chapter 4 of this new policy does not include the changes that were exhibited in 2018 and those provision are still under review.</p> <p>The draft State Environmental Planning Policy (Remediation of Land) will:</p> <ul style="list-style-type: none"> <li>• Provide a state-wide planning framework for the remediation of land.</li> <li>• Maintain the objectives and reinforce those aspects of the existing framework that have worked well.</li> <li>• Clearly list the remediation works that require development consent.</li> <li>• Categorise remediation work based on the scale, risk and complexity of the work.</li> <li>• Require environmental management plans relating to post remediation, maintenance and management of on-site remediation measures to be provided to Council.</li> </ul> <p>The proposal is inconsistent with this draft instrument as discussed in section (i) above.</p>
(iii) Any development control plan	<p>Blacktown Growth Centre Precincts Development Control Plan 2010 applies to the site.</p> <p>The development application does not reflect the Indicative Layout Plan (ILP) for the Riverstone Precinct and proposes to shift their obligation to build part of the road onto adjoining land without any justification having been provided to support this change and how this proposed development still meets the intention of the ILP.</p> <p>Streetscape presentation and internal and external amenity of the dwellings do not comply with Control 1 of Part 3.1.2.2.1 (with a school located to the north-west of the site). In relation to Control 1 of Part 4.2.2.2, the proposal will not face the local road and proposes to turn its back on the road with a solid fence along its entire length.</p> <p>No details of fencing or acoustic treatment has been provided as required by Control 1 of Part 4.2.9.2 and does not allow a proper assessment of compliance with controls in Part 4.2.10.2.</p> <p>The proposed development is inconsistent with objectives a-d and Control 8 of Part 4.2.2.1 as repetitive design of the proposed multi dwelling houses does not enhance the built form and character of the locality.</p> <p>The proposed development results in poor streetscape and a character that is not reflective of the character of 20 dwellings per hectare under Control 2 of Part 3.1.1.1.</p> <p>The dwellings located at prominent street corners do not present the visual prominence or address both street which is contrary to Control 2 of Part 3.1.4.2.</p> <p>The proposed development fails to satisfy objectives a-c and Controls 1, 6, 7 and 8 of Part 2.3.4, as native trees and</p>



Heads of Consideration	Comment
	<p>vegetation are not retained where possible or detailed on the Landscape Plan.</p> <p>Insufficient separation distances provided between the proposed dwellings that are not attached contrary to objective b and Control 2 (Table 4.9) of Part 4.3.4.</p> <p>The proposal does not comply with car parking requirements of Table 4-9 of Part 4.3.4.2.</p> <p>The proposed development does not comply with Part 3.4.3 of for adaptable dwellings which are preferred to be single level accommodation at ground level and located at street frontage.</p> <p>The required stormwater and waste requirements for such a development have not been satisfactorily addressed. Due to insufficient information and we are unable to form an opinion that the proposal complies with Parts G and J of the Development Control Plan.</p>
(iii a) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,	<p>The applicant has not entered into any planning agreement with Council.</p>
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	<p>The proposed development is contrary to subclause 1b of Clause 23 of the Regulation in that Council's consent as the owner of part of the land has not been provided.</p>
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	<p>The development application does not reflect the Indicative Layout Plan (ILP) for the Riverstone Precinct and no justification has been provided to support the proposed development layout.</p> <p>The proposal also does not represent orderly development of the site.</p> <p>The proposed change to the ILP will have an impact on the layout and subdivision pattern of adjoining properties.</p> <p>The development results in a poor streetscape presentation with poor internal and external amenity.</p> <p>The proposed development is not compatible with the desired future character of the locality as there is insufficient diversity of built form with a repetitive building typology applied across the development with negligible differentiation between the dwellings.</p> <p>The proposed development will result in poor amenity outcomes for both future occupants and the surrounding area.</p> <p>There is inadequate planning information to enable a complete assessment of the development's likely impacts.</p> <p>The shadow diagrams are inadequate as they do not refer to the time of year (month) and do not contain sufficient details to demonstrate that at least 50% of the dwelling's private open space receives direct solar access in midwinter for a minimum of 3 hours between 9 am and 3 pm.</p>

Heads of Consideration	Comment
	The development is likely to result in negative environmental impacts on the natural and built environment as it has not demonstrated the capability to achieve an adequate stormwater system or waste management. In addition, the contamination and tree assessment reports are out of date, being more than 5 years old.
c. The suitability of the site for the development	There is inadequate planning, engineering, waste and site contamination information provided to enable a complete assessment of the development's likely impacts. The applicant has not satisfied Council that the site can cater for this development. On this basis, the site is not suitable for the proposed development.
d. Any submissions made in accordance with this Act, or the regulations	The application was exhibited for a period of 14 days and 1 submission was received from School Infrastructure NSW.
e. The public interest	The proposal is not in the public interest as it is not orderly development and is not compatible with the site's context and surroundings in terms of the desired future character. The current proposal does not provide adequate stormwater and waste provisions and site contamination and planning matters have not been adequately addressed despite numerous requests to do so.

## 7 Issues raised by the public

- 7.1 The proposed development was notified to 34 property owners and occupiers in the locality including Hawkesbury City Council and 7 properties in the Hawkesbury City Council local government area between 21 June and 5 July 2023. The development application was also advertised on Blacktown City Council's website and a sign was erected on the site.
- 7.2 We received 1 submission from School Infrastructure NSW, which raised concerns on:
- Disruption to Vineyard Public School from the temporary construction noise and vibration.
  - The lack of information in the proposal for construction vehicle management. The submission recommended inclusion of management controls to ensure:
    - Avoidance of construction vehicle queuing that will cause blocking of pedestrian and vehicular access into Vineyard Public School on Windsor Road and Bandon Road.
    - Construction workers are encouraged to use public transport and not park on the Bandon Road frontage of Vineyard Public School.
    - Construction vehicles, including delivery vehicles, do not enter and exit the proposed work site during drop-off and pick-up periods. It proposed the development should be conditioned such that construction and waste collection vehicles, including delivery vehicles, are not entering and exiting development sites 1 hour before AM school bell times nor 1 hour after PM school bell times on school days.

- The locations of work zones, i.e. they proposed that the locations should not compromise pedestrian, cyclist and vehicular access to the school's drop-off and pick-up spaces.

School Infrastructure NSW also commented that the proposal should also fill the gaps in the active transport links from the development to school, bus stops, train station and commercial premises to encourage residents and school students to walk and cycle safely to the proposed development. This can be achieved through the construction of new or upgraded shared user paths and pedestrian crossing facilities.

## **8 Key issues and reasons for refusal**

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### **8.1 The proposal does not comply with the Indicative Layout Plan (ILP) for the Riverstone Precinct or orderly development of the site**

- 8.1.1 The applicant for this DA assumes that the ILP road running north east-south west shown on the north-western side of the site shown in Figure 3-1 of Schedule 2 in the Growth Centres DCP, is wholly located on the adjoining lots to the north owned by Department of Education. Based on the Council and NSW cadastre, the ILP road encroaches into the subject site by approximately 3 metres and the layout plan for the road network within the development does not acknowledge this. The applicant is effectively shifting the obligation to deliver the whole road onto the adjoining owner to the north being Department of Education without their express consent to do this.
- 8.1.2 Further, the layout of the proposed development effectively "turns its back" on the future Indicative Layout Plan road by proposing to locate only rear fences along this boundary facing the future public road with no active street frontages. No justification has been provided to support this aspect of the layout which appears to infer that the road is not required. This is contrary to Aim 1.2 (g) of Appendix 7 SEPP Central River City which requires development 'to promote pedestrian and vehicle connectivity with adjoining Precincts and localities and within the Alex Avenue and Riverstone Precincts'.
- 8.1.3 The road hierarchy and design are contrary to Controls 4 and 6 of Part 3.4.1 of the Growth Centres DCP 2010. The layout does not provide part of the northern most road pattern for the future public road on the school site instead orientating the development into the development site to an internal private road instead. This will not create a permeable network that links to public roads onto adjoining properties. This is also contrary to Aim 1.2 (g) of Appendix 7 SEPP Central River City which requires development 'to promote pedestrian and vehicle connectivity with adjoining Precincts and localities and within the Alex Avenue and Riverstone Precincts'.
- 8.1.4 This proposed change to the Indicative road pattern will have an adverse impact on the road layout and development potential of the school site and residential land to the north of this site. This will also have poor amenity outcomes for this part of the precinct. No justification for this non-compliance has been provided by the applicant.

### **8.2 The proposed development will be landlocked**

- 8.2.1 The applicant for this proposal does not demonstrate how permanent access will be achieved for the future completed development based on the proposed road layout and linkages to adjoining land to the north.
- 8.2.2 The proposed construction of the development relies on a temporary extension of proposed Road 1 to Bandon Road through Lot 24 in DP 1224519, owned by NSW Department of Education (the Minister for Education and Early Learning). School

Infrastructure NSW has given its consent to the lodgement of the development application, and provided a copy of a Deed of Temporary Access for construction access only. Annexure A of the Deed depicts the location of the area over which the Right of Temporary Access applies but it is illegible as it is not coloured.

- 8.2.3 Furthermore, the deed does not facilitate a permanent public road extension of Road 1 to Bandon Road post construction for the permanent ongoing use and access to all multi dwelling units. Given On this basis the new development will be landlocked.
- 8.2.4 This uncertainty about the permanent arrangement and the temporary extension of Road 1 has also been raised by Transport for NSW.

### **8.3 Transport for NSW does not support the proposed development and so the traffic impact assessment has not been addressed**

- 8.3.1 Transport for NSW does not support the proposal in its current form. The site is within an area under investigation for the proposed Bandon Road Corridor between Windsor Road and Richmond Road. Part of the Windsor Road frontage of Lot 23 DP1224519 would be required for the project as shown on the following page (as depicted in pink).
- 8.3.2 This proposal encroaches on the area affected by the Transport for NSW road proposal and the area required for road corridor has not been shown on the development plans.



Aerial map of the site showing Lot 23 DP 12245 (highlighted in orange with a yellow circle B4) that is under investigation by Transport for NSW for proposed Bandon Road Corridor





Frontage of Lot 23 DP 12245 as depicted in pink (boarded by blue line) that is under investigation by Transport for NSW for proposed Bandon Road Corridor.

- 8.3.3 As outlined earlier the proposed development also relies on a temporary construction access over proposed Road 1 to Bandon Road through Lot 24 in DP 1224519, owned by NSW Department of Education (the Minister for Education and Early Learning). School Infrastructure NSW has given its consent to the lodgement of the development application, and provided a copy of a Deed of Temporary Access.
- 8.3.4 Transport for NSW is concerned that as the site does not have its own frontage along Bandon Road no evidence has been provided to them that the proposed development will have a permanent connection to Bandon Road through another property. TNSW is concerned that that completed development will be landlocked and that access to the site will then have to be made available via Windsor Road. However, Windsor Road is an access denied road and Transport for NSW will not support any access into this estate from Windsor Road.
- 8.4 The proposal includes a subdivision to create roads and super lots but it is not documented in the development application or Statement of Environmental Effects**
- 8.4.1 Neither the development application form or Statement of Environmental Effects provide any reference to or any details of the subdivision of the site to resubdivide the land to create 3 super lots and public roads. An architectural plan shows a site plan with road pattern changes and refers to Lots 1 to 3.
- 8.4.2 On this basis there is insufficient information to assess this application.
- 8.5 The applicant has not sought owner's consent in relation to the construction of drainage on adjoining land**
- 8.5.1 Civil engineering plans submitted with the application show Basin 1 (Temporary OSD and Bio Basin) constructed on part of Lots 18 and 19 in DP1224519, which is land owned by Blacktown City Council and zoned SP2 (Drainage).

8.5.2 Council has not given its owner's consent to lodge the development application or carry out development on that land. The applicant must separately obtain from Council this owner's consent.

8.5.3 On this basis the applicant has no approval to drain their land.

**8.6 Site contamination is out of date and the applicant has not satisfied Clause 4.6 of Resilience and Hazard State Environmental Planning Policy to confirm the site is suitable for this development.**

8.6.1 The applicant has not provided current information on the status of site contamination on this site. The information provided was prepared on 28 June 2018. Given the age of the document, we are not satisfied that its contents can be relied upon as being accurate.

8.6.2 The Statement of Environmental Effects states that the site investigation and contamination report has been prepared by Geotesta Pty Ltd on 10 March 2021. However, this report has not been provided with the application. We have asked for it, but it remains absent from the development application package.

8.6.3 In addition, aerial images of the property show the importation of fill material from at least 17 February 2022. As such, further contamination of the site may have occurred on the site, specifically, but not limited to the area around bore BH2 referenced in the 2018 contamination report.

8.6.4 On this basis the applicant has not satisfied Council that the site is suitable for this proposal and so fails the test in Clause 4.6 of Chapter 4 of the Resilience and Hazard SEPP 2021.

**8.7 There will be substantial tree removal and the report is 5 years old.**

8.7.1 Whilst the land is bio-certified under the Growth Centres SEPP the applicant has not provided sufficient information to allow a proper assessment of opportunities for tree retention. No Arborist report has been submitted although the Statement of Environmental Effects states that a report has been submitted. We have requested it, but the applicant has not provided us with a copy of the report.

8.7.2 No details about how many trees to be retained and no tree protection plan or tree protection details. The tree report is 5-year-old and contains material that is inaccurate given the passage of time.

8.7.3 The proposed development fails to satisfy the objectives for the retention of native vegetation as contained in Clause 5.9 to Appendix 7 Alex Avenue and Riverstone Precinct Plan to the SEPP Central River City.

8.7.4 The proposed development fails to satisfy objectives (a)-(c) and controls 1, 6, 7 & 8 of Part 2.3.4 of the Growth Centres DCP 2010, as native trees and vegetation are not retained where possible or detailed on the landscape plan.

8.7.5 The Preliminary Tree Assessment prepared by Monaco Designs PL dated 17 May 2018 identifies 28 trees of high retention value and 173 trees of very high retention value within the site. Due to the age of the Preliminary Tree Assessment prepared by Monaco Designs PL dated 17 May 2018, we require an addendum to confirm that the report remains accurate. Notwithstanding, none of the high or very high retention value trees are overlayed on the architectural plans submitted with the DA. The lack of current and accurate information prevents a proper assessment of the potential for tree retention. We have requested an addendum to the report, but the applicant has not provided us with it.

## **8.8 Insufficient information provided to assess the proposed house products against the Growth Centres Development Control Plan 2010**

8.8.1 In relation to 'Streetscape and amenity of dwellings and adjoining properties' the application fails to provide sufficient information in the following manner:

- The multi-dwelling houses adjacent to the north-western boundary address the private road and effectively turn their back on the proposed public road to the north-west. As the area adjacent to the public road will be the only area of private open space for the dwellings, high fences will be required, but are not detailed on the plans. This is contrary to Control 1 of Part 3.1.2 2.1 (with a school located to the north-west of the site) and Control 1 of Part 4.2.2.2 of the Growth Centres DCP 2010. Therefore, the intended view to this future road will be a high boundary fence for the whole length of the development.
- Due to non-compliances with the ILP, it is unclear how future dwellings on the site to the north-east will interface with Roads 9 and 10 where they run along the side boundary.
- The introduction of a parallel road to Windsor Road (Road 12) is not envisaged in the ILP. The design and layout of the proposed dwellings fronting Road 12 provide maximum exposure of the living areas, bedrooms, and private open space areas to Windsor Road, which is detrimental to the amenity of future residents.
- No details of fencing or acoustic treatments are provided on the architectural plans. This is contrary to Control 1 of Part 4.2.9.2 and does not allow a proper assessment of compliance with the controls in Part 4.2.10.2 of the Growth Centres DCP 2010.
- The proposed multi dwelling housing has not been designed and oriented to provide active frontages to and surveillance of the public recreation or drainage land as per Clause 6.2 (3) (b) of Appendix 7 of SEPP Central River City.
- The private open space of dwellings will be overlooked by adjoining and/or perpendicular dwellings within 4.5 metres contrary to Controls 3 - 4 of Part 4.2.9.2 of the Growth Centres DCP 2010.
- Insufficient information has been provided to demonstrate that adequate landscaping, fencing and finished ground treatments and gradients, including paving and retaining walls, will achieve adequate visual and acoustic privacy for all private open space areas. The proposal fails to demonstrate compliance with Section 4.2.7 Private Open Space of the Growth Centres DCP 2010.
- The development application does not demonstrate how the proposal will not adversely impact on the amenity of adjoining residential properties as per Clause 6.2 (3) (a) of Appendix 7 of SEPP Central River City.
- The proposed development contains 2 dwellings immediately adjacent to Windsor Road (81 and 177) and a further 10 dwellings separated only by Road 10. The primary living areas, private open space and bedrooms will be exposed to traffic noise with no details provided of privacy measures or fences contrary to Control 8 of Part 4.2.9.1 of the Growth Centres DCP 2010.
- Furthermore, based on the Acoustic Assessment Report prepared by Acoustic Logic dated 19 December 2022, bedrooms of dwellings 23-42, 74-81 and 140-77 with windows on the northern, eastern, or southern facades must have windows closed to achieve acceptable noise level goals. Similarly, living

rooms of dwellings 23-42, 74-81 and 140-177 with windows on the same facades must have windows closed. This limits access to natural ventilation.

- The extent and level of affectation is significant, contrary to Objective (a) and Controls 8 and 9 of 4.2.9.1 of the Growth Centres DCP 2010.
- The shadow diagrams are inadequate as they do not refer to the time of year (month) and do not contain sufficient details to demonstrate that at least 50% of each dwelling's private open space area receives direct solar access in midwinter for a minimum 3 hours between 9 am and 3 pm. Shadow diagrams need to include shadows to be cast by fencing as well as proposed buildings.
- NSW RFS has commented and provided draft conditions by letter dated 23 May 2023. Reliance on temporary APZs precludes development of Lots 1, 2, 61-64, 92, and 111-114 until adjoining lots are cleared of bushland. Lots 92 is an attached dwelling part of long row of 6 attached dwellings. Lots 111-114 are attached dwellings each part of a row of 3 attached dwellings. The impact of the deferred construction of these attached dwellings will have unacceptable streetscape impacts. Redesign is required to manage the streetscape presentation of the affected buildings.

8.8.2 In relation to 'Built form', the application fails to provide sufficient information in the following manner:

- The proposed development is inconsistent with objectives (a)-(d) and Control 8 of Part 4.2.2.1 as the repetitive design of the proposed multi-dwelling houses does not enhance the desired future built form and character of the locality.
- The proposed building form does not demonstrate sufficient variation between each of the buildings and results in a poor streetscape and a character that is not reflective of that required for 20 dwellings per hectare under SEPP Central River City and Control 2 of Part 3.1.1.1.
- The development should incorporate special roof features, skillion roofs, a variety of eave proportions, deep window reveals/shading devices, steps in plan to identify different dwellings and solid/void elements integrated within the façade design.
- Dwellings located at prominent street corners do not present with visual prominence or address both streets. This is contrary to Control 2 under Part 3.1.4.2.
- Insufficient separation distances are provided between the proposed dwellings that are not attached, and this is contrary to objective (b) and Control 2 (Table 4.9) of Part 4.3.4.
- Dwellings adjacent to the south-eastern boundary are setback 1 - 4 metres from the side boundary with No. 1568 Windsor Road. These dwellings will have an adverse impact on the privacy of any future redevelopment of that site in terms of building separation. The 1 metre separation distances of some dwellings to the boundary will shift the burden of ensuring adequate building separation and privacy onto the adjoining property.

8.8.3 In relation to 'Car parking and visitor parking', the application fails to provide sufficient information in the following manner:

- All dwellings in the proposed development contain 3 or more bedrooms. Table 4-9 of Part 4.3.4.2 of the Growth Centres DCP 2010 requires provision of at least 1.5 car parking spaces per dwelling. Whilst the DA complies with this numerical requirement, all dwellings are provided with a single garage only with provision for a stacked space in front of the garage for 92 dwellings.



There is minimal diversity of onsite parking accommodation in the development, placing undue pressure on visitor parking and on-street parking areas. Due to the narrow width of the public and private roads, parked vehicles will create conflict with larger vehicles such as garbage trucks, restricting manoeuvring.

- Visitor parking spaces are located in a manner which is not evenly distributed within the subject site and in locations which lack casual surveillance, resulting in inconvenient, inequitable access to visitor parking and parking spaces which do not comply with the principles of Crime Prevention Through Environmental Design including the territorial reinforcement principle.
- There is inconsistency with the architectural plans provided and the description of the development in the application and the Revised Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd dated 23 December 2022 (Traffic Report). The Traffic Report states 'off-street parking is proposed for 303 cars, comprising 266 residential spaces and 37 visitor spaces. However, the plans depict provision of 305 car parking spaces of which 269 are residential spaces (either with a single garage (177) or stacked in front of the garage (92)) and 36 are nominated for visitors. The plans would need to be amended to reflect this.

8.8.4 In relation to 'Accessible dwellings, accessible visitor parking and accessible paths of travel', the application fails to provide sufficient information in the following manner:

- Part 4.3.4 of the Growth Centres DCP 2010 states that controls for adaptable dwellings applies to multi-dwelling housing. Adaptable dwellings are preferably to be single level accommodation at ground level and located on the street frontage.
- The applicant has not clearly nominated the location and number of adaptable dwellings within the development.
- It has not been demonstrated that all dwellings are visitable by persons with a disability. Furthermore, the proposal does not demonstrate a continuous accessible path of travel throughout the development linking all dwelling entries.
- The proposed development does not provide any provision for visitor parking for persons with a disability.

8.8.5 In relation to calculations provided for site coverage, landscaped areas and density, the application fails to provide sufficient information in the following manner:-.

- The calculations provided for the site coverage, landscaped areas and density do not match the combined area by Lot and DP.

8.8.6 The applicant has not informed Council as to the proposed land titling for this medium density housing development.

- Council has not been given information about how shared facilities like shared parking and shared private roads will be owned and maintained. There is no indication who will manage these as the shared responsibilities which is usually are managed in a Community title or Strata title development by a body corporate which manages these shared spaces. Fees are levied on all owners to share the cost of maintenance.

## **8.9 Insufficient information has been provided to enable proper assessment of development and drainage engineering issues**

8.9.1 The applicant has not provided sufficient information to allow a proper assessment of the proposed roads, drainage, stormwater catchment for each proposed onsite stormwater detention system and internal drainage layout for the proposed dwellings. There are also issues relating to the impact of the Bandon Road extension on the location of the proposed temporary basin proposal on Council's land.

## **8.10 Insufficient information has been provided to enable a proper assessment of the waste management for the site**

8.10.1 The applicant has not provided sufficient information to allow a proper assessment of the proposed garbage truck's entire travel path and swept paths on all the proposed internal roads to ensure a Council garbage truck can negotiate all these private access ways safely.

8.10.2 There is no information provided regarding the trajectory and manoeuvring of the waste vehicles over the proposed southern end of the development site. Temporary turning heads in the form of cul-de-sac heads have not been shown so the road network results in unsatisfactory dead ends which will force garbage trucks to reverse in a narrow private road network. On this basis council will not be able to service parts of this development.

## **8.11 Insufficient information has been provided to enable a proper assessment by Rural Fire Service**

8.11.1 Reliance on temporary Asset Protection Zones precludes development of units 1, 2, 61-64, 92, and 111-114 until adjoining bushland are cleared. Lots 92 is an attached dwelling part of long row of 6 attached dwellings. Lots 111-114 are attached dwellings each part of a row of 3 attached dwellings.

8.11.2 In addition, the applicant has not determined that the access roads will meet the requirements of Table 5.36 of Planning for Bushfire Protection 2019. Therefore, access requirements cannot be achieved without amendments to the proposed road layout and access arrangements to the dwellings.

8.11.3 As Rural Fire Service has not provided its concurrence to this proposal the development cannot be supported.

## **9 Internal referrals**

9.1 The development application was referred to the following internal sections of Council for comment:

<b>Section</b>	<b>Comments</b>
Building	Satisfactory subject to conditions.
Traffic	Objects to the proposal.
Development Engineer	Objects to the proposal.
Waste	Objects to the proposal.
Drainage Engineer	Objects to the proposal.
Environmental Health	Objects to the proposal.

Section	Comments
Sports and Recreation	Advises that there is no direct impact to the RE1 zoned land.
Open Space Maintenance	Requests an amended street tree plan.
Asset Design	Objects to the proposal.
Natural Areas	Objects to the proposal.

## 10 External referrals

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

Authority	Comments
Rural Fire Services	Comments and draft conditions have been provided. However, Reliance on temporary APZs precludes development of units 1, 2, 61-64, 92, and 111-114 until adjoining bushland are cleared. Lots 92 is an attached dwelling part of long row of 6 attached dwellings. Lots 111-114 are attached dwellings each part of a row of 3 attached dwellings. In addition, how access requirements can be achieved with amendments to the proposed road layout and arrangements of the dwellings. RFS has not provided its concurrence to the proposal and so they have not provided any general terms of approval either to support this application.
Transport for NSW (Roads and Maritime)	<p>The application was referred to Transport for NSW (Roads and Maritime) due to the site's location adjacent to Windsor Road, which is a classified road and the development is considered traffic generating under State Environmental Planning Policy (Transport and Infrastructure) 2021.</p> <p>Transport for NSW advised that the application is not supported in its current form and amendments and additional information is required for further assessment.</p> <p>The issue raised by Transport for NSW that the site is within an area under investigation for the proposed Bandon Road corridor between Richmond Road and Windsor Road. This proposal encroaches on the area affected by the road proposal. The area required for road corridor has not been identified on the development plans. To date we haven't received the requested information from the applicant.</p>

## 11 Conclusion

11.1 The proposed development has been assessed against all relevant matters and is not considered to be satisfactory. It is considered that the likely impacts of the development have not been satisfactorily addressed and that the proposal is not in the public interest. The site is not considered suitable for the proposed development.

## 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

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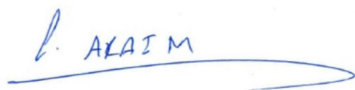
- 1 Refuse Development Application SPP-23-00037 for the following reasons:
- a The proposal will result in a negative environmental impact on the natural and built environment as the applicant has not demonstrated that they can achieve satisfactory permanent access, adequate stormwater disposal and waste management for this proposal. [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].
  - b The proposal is likely to result in negative social and economic impacts as it does not provide sufficient planning information on establishing its relationship with the surrounding development. In terms of its connectivity to the adjoining development sits to the north. Also, Basin 1 (Temporary OSD and Bio Basin) is proposed to be constructed on part of land owned by Council for a drainage reserve to the west of this site. Council has not given owner's consent to lodge the DA or carry out development on its land. [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].
  - c The proposal is likely to result in negative social and economic impacts as it does not provide sufficient information, as required by NSW Rural Fire Service, to demonstrate how access requirements can be achieved without amendments to the proposed road layout and arrangement of dwellings. [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].
  - d The site is not suitable for the development as there is inadequate engineering, waste, site contamination, biodiversity, traffic, access and parking information provided to enable a complete assessment of the development's likely impacts. The applicant has not satisfied Council that the site can cater for this development. [Section 4.15(c) of the Environmental Planning and Assessment Act 1979].
  - e The site is not suitable for the development as there is inadequate information provided to enable Transport for NSW a complete assessment of the development's likely impacts. The applicant has not satisfied Council that the site can cater for this development. [Section 4.15(c) of the Environmental Planning and Assessment Act 1979].
  - f The proposal will not achieve orderly development that is compatible with the site's context and surroundings and is therefore not in the public interest. [Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979].

- g The proposal does not comply with Clause 4.6 of Chapter 4 of the Resilience and Hazard SEPP 2021 as there is insufficient information to confirm that the site is suitable or can be made suitable for this development. [Section 4.15(1)(a)(i) and S4.15(1)(b) of the Environmental Planning and Assessment Act 1979].
  - h Based on the above reasons, the proposal is inconsistent with the provisions of the relevant environmental planning instruments including the State Environmental Planning Policy (Precincts - Central River City) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Draft State Environmental Planning Policy (Environment), and Draft State Environmental Planning Policy (Remediation of Land). [Section 4.15(1)(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979].
- 2 Council officers notify the applicant, the submitter and external authorities of the Panel's decision.

## 14 Declaration and endorsement

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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.



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Luma Araim  
Senior Town Planner



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Judith Portelli  
Manager Development Assessment



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Peter Conroy  
Director City Planning and Development