

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

1 Environmental Planning and Assessment Act 1979

1.1 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
a. The provisions of: (i) Any environmental planning instrument (EPI)	<p>The proposal is considered to be generally consistent with the relevant EPIs, including SREP No. 20 – Hawkesbury-Nepean River, SEPP (State and Regional Development) 2011, SEPP (Infrastructure) 2007 and the Growth Centres SEPP 2006.</p> <p>The site is zoned R2 Low Density Residential. The proposed development is permitted under this clause with the exception of the construction of attached dwellings located along the northern boundary of the site, but which are permitted under Clauses 5.3 and 6.11.</p>	Yes
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	<p>In May 2017 (prior to the lodgement of this application) the Department of Planning, Industry and Environment (DPIE) exhibited a draft amendment to the Growth Centres SEPP 2006, referred to as the 'North West Draft Exhibition Package.' This exhibition coincided with the release of the Land Use and Infrastructure Implementation Plan (the purpose of which is to guide new infrastructure investment, make sure new developments do not impact on the operation of the new Western Sydney Airport, identify locations for new homes and jobs close to transport, and coordinate services in the area).</p> <p>A key outcome sought by DPIE is the establishment of minimum and maximum densities for all residential areas that have been rezoned under the SEPP (i.e. density bands). Currently the planning controls nominate only a minimum density. This proposal will have a significant influence on the ultimate development capacity (i.e. yield) of the precincts.</p> <p>Following exhibition in mid-2017 and the receipt of many objections, DPIE is still considering this matter and no final decision has been made. The timing of adoption is uncertain at this stage, as is the content of any amendments. There is no guarantee the exhibited controls will be adopted and made law.</p> <p>This site is within the Marsden Park Precinct and the density band demonstrated in the Exhibition Package is 15 to 25 dwellings per hectare, which equates to a maximum of 31 dwellings on this site. The proposal is for 69 dwellings, being an additional 38 dwellings above that anticipated in the Exhibition Package. Although the proposal is inconsistent with the maximum dwelling density as exhibited, there is no certainty or imminence to these amendments coming into effect, and therefore this is not a matter for consideration in this application.</p> <p>The Sydney Planning Panel has dealt with other DAs in the North West Growth Area that also do not comply with the</p>	The draft amendment is not certain or imminent and cannot therefore be given any substantive weight.

Heads of Consideration	Comment	Complies
	exhibited (but not applicable) density bands. To be consistent, this DA should be dealt with in a similar way.	
(iii) Any development control plan (DCP)	The Blacktown City Council Growth Centre DCP applies to the site. The proposed development is compliant with the relevant controls established under the DCP, with the exception of a minor variation to the front setback for the proposed attached dwellings. A condition has been imposed requiring amendments to the plans to show compliance with the front setback requirement under the DCP.	Yes, subject to conditions.
(iii a) Any Planning Agreement	Stockland entered into a Voluntary Planning Agreement (VPA) with Council in 2014 for Precinct 1 of its Elara Estate. This VPA (now called the Elara Planning Agreement) has been varied several times through deeds of variation, to include further stages (Precincts 1 to 6) of development within Stockland's Elara Estate, including this Development Application. It applies to all residential development within Stockland's Elara Estate. Although it is a VPA, it mirrors the section 7.11 contributions that Stockland is obligated to make for its Elara development and includes the section 7.11 land dedication and works listed in Council's contributions plan.	Yes
(iv) The regulations	There are no regulations to be considered.	N/A
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	It is considered that the likely impacts of the development, including traffic and access, design, salinity, contamination and stormwater management, have been satisfactorily addressed. A site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties. In view of the above, it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.	Yes
c. The suitability of the site for the development	The subject site is predominantly zoned R2 Low Density Residential. The proposal is considered to have a minimal environmental impact on the natural and built environment and will not adversely impact on the amenity of surrounding development.	Yes
d. Any submissions made in accordance with this Act, or the regulations	The application was not required to be notified as the surrounding properties are owned by the same owner as this site.	N/A
e. The public interest	It is considered that no adverse matters relating to the public interest arise from the proposal. The proposal will provide subdivided land for future housing stock and provides for housing diversity within the Marsden Park Precinct.	Yes

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

Summary comment	Complies
The DA has a CIV of \$20.682 million. The Development Application was lodged on 11 January 2018 and, despite the change in the threshold for Capital Investment Value upon amendments to the SEPP on 1 March 2018 from more than \$20 to \$30 million, the proposed development remains a regional development for the purpose of this SEPP. Being a regional development, Council is responsible for the assessment of the DA and determination of the application is to be made by the Sydney Planning Panel.	Yes

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

Summary comment	Complies
The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP, including BASIX certification. Valid BASIX Certificates have been submitted with the Development Application in line with the provisions of this SEPP. The BASIX Certificates demonstrate that the proposal complies with the relevant sustainability targets and will implement those measures required by the Certificates. This will be conditioned in the consent.	Yes

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

Summary comment	Complies
SEPP 55 aims to 'provide a State-wide planning approach to the remediation of contaminated land'. Clause 7 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent. A detailed site investigation, prepared by DLA Environmental dated May 2015, was submitted with the approved bulk earthworks DA on the broader site (Precincts 5 and 6). The investigation concluded that the site can be made suitable for the intended use subject to the removal of surface fill material and a subsequent asbestos clearance/validation report. Council's Environmental Health Unit (EHU) recommended appropriate conditions for the handling and disposal of asbestos under the bulk earthworks DA. The condition requires that a validation report be prepared by a qualified geoscientist upon completion of work, validating the suitability of the site for the proposed residential development and to be endorsed by Council prior to the release of the final plan of subdivision. A similar condition will be included on this consent to ensure that the site is suitable for the intended use prior to release of the Subdivision Certificate for each stage or the Building Construction Certificate for the dwellings, whichever comes first.	Yes, subject to conditions.

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

Summary comment	Complies
<p>Clause 4 of SREP 20 states that a consent authority must take into consideration the general planning considerations set out in Clause 5 of SREP 20 and the specific planning policies and recommended strategies in Clause 6 of SREP 20.</p> <p>The applicant has submitted stormwater drainage plans and hydraulic calculations to address the relevant planning policies of the REP.</p> <p>Council's Engineers reviewed the information submitted and consider that the information has satisfactorily addressed Clause 6 of the REP with regard to total catchment management, water quality, water quantity, urban development and their relevant strategies. In this regard, they are satisfied that the proposal will have minimal impact on the environment of the Hawkesbury-Nepean River system and therefore the requirements of Clause 4 have been met.</p>	Yes

6 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Summary comment
<p>We have assessed the DA against the relevant provisions of the SEPP.</p> <p>It is compliant with all matters.</p>

7 Blacktown City Council Growth Centre Precincts Development Control Plan 2018 (Growth Centre DCP)

Summary comment
<p>We have assessed the DA against the relevant provisions and the table below only identifies where compliance is not fully achieved.</p> <p>It is compliant with all other matters under the Blacktown City Council Growth Centres Precinct Development Control Plan 2018 (Growth Centre DCP).</p>

7.1 Part 3.0 – Neighbourhood and Subdivision Design (from main body of DCP)

7.1.1 Controls for all residential development

Control	DCP Requirement	Proposal	Complies
Development in Residential Zones			
4.1.2 Cut and fill	Bulk earthworks over the site have previously been approved under the consent for the broader site. The proposed land regrading and contouring under this application involves a maximum of 0.5 m of cut and a maximum of 1.4 m of fill. The proposed site grading under this application matches already approved surrounding levels and provides a transition of levels that enables the site drainage to discharge to a future regional basin.		No, but acceptable in this circumstance

7.1.2

7.1.3 Dwelling design controls – All lots >4.5 m for rear accessed dwellings

Control	DCP Requirement	Proposal	Complies
4.2.3 Front setback (minimum)	4.5 m to building facade line with 3 m to articulation zone	<p>All proposed dwelling are provided with a minimum of 4.5 m front setback to the building facade line and 3 m to the articulation zone, with the exception of the proposed attached dwellings along the northern boundary (which have a proposed 4 m front setback to the building façade).</p> <p>A condition will be imposed to amend the plans prior to the issue of the Construction Certificate, to show compliance with a minimum 4.5 m front setback to the attached dwelling along the northern boundary.</p>	Yes, subject to conditions