

Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-68

Development application

DA number	SPP-18-00002	Date of lodgement	11 January 2018
Applicant	Stockland Development Pty Ltd c/- GLN Planning		
Owner	Woorong Park Pty Ltd		
Proposed development	Integrated housing consisting of 41 attached dwellings, 26 semi-detached dwellings, 2 detached dwellings and 2 studio dwellings, with associated community and strata title subdivision within Stockland Precinct 6B (known as MD8)		
Street address	Proposed Lot 5190 in a subdivision of Lot 2 DP 1225885 Richmond Road, Marsden Park		
Notification period	Notification not required	Number of submissions	Nil

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	Capital investment value (CIV) exceeds \$20 million (the Development Application was lodged prior to 1 March 2018) CIV for this application is \$20,682,143
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 55 – Remediation of Land • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • Blacktown City Council Growth Centre Precincts Development Control Plan 2018 (Growth Centre DCP)
Report prepared by	Sami Ahangari
Report date	11 February 2020
Recommendation	Approve, subject to the conditions listed in attachment 7.

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 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? N/A

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 Clause 5.3 variation requested by the applicant
 - non-compliance with front setback requirements under Table 4-2 of Blacktown City Council Growth Centre Precincts DCP
 - Voluntary Planning Agreement and section 7.11 contributions.
- 1.2 The proposed development was not notified as all the land adjoining the site is owned by Woorong Park Pty Ltd, who is also the owner of the land for this Development Application.
- 1.3 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.4 The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 7.

2 Location

- 2.1 The site is at the southern end of the Marsden Park Precinct in the North West Growth Area, and is part of Precinct 6 of the Elara Estate. The concept plan for Precinct 6 was approved under SPP-17-00044 which also created 3 superlots along the northern boundary of the site. The subject development is proposed for the middle superlot bounded by local roads approved under previous consents.
- 2.2 Current access to the site is from Richmond Road. However, future access will also be available from local roads, once the roads approved under previous consents in the surrounding area are constructed.
- 2.3 The surrounding locality comprises Stockland's residential Elara Estate to the south, west and east. Future amenities will include a future neighbourhood centre (on B2 zoned land) and medium density housing development (on R3 zoned land) to the north of the development.
- 2.4 The character of the wider locality is in transition due to rezoning by the NSW Government in 2013 to release land for largely residential, employment and other urban development purposes, with much of the rural land being subdivided for small lot residential development.
- 2.5 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The subject land is known as approved superlot 5190 in a subdivision of Lot 2 DP 1225885.
- 3.2 Lot 5190 was created (but not yet registered) under SPP-17-00044 within Precinct 6 of Stockland's Elara Estate. The site has an area of 1.51 hectares and is clear of vegetation. The earthworks and construction of public roads approved under the previous consents are currently underway, to prepare the site for future dwelling construction and subdivision.
- 3.3 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 The site is zoned R2 Low Density Residential under the provisions of the Growth Centres SEPP.
- 4.2 As the site is in the Marsden Park Precinct, Appendix 12 of the Blacktown Growth Centres Precinct Plan of the Growth Centres SEPP applies.
- 4.3 Subdivision and Integrated housing products are permitted under Clause 2.6 Subdivision of Appendix 12. Roads and drainage works are also permitted with consent on R2 Low Density Residential zoned land.
- 4.4 The zoning plan for the site and surrounds is at attachment 3.
- 4.5 Council has approved bulk earthworks under DA-15-02273 for Precincts 5 & 6 involving the placing and engineering of fill material, drainage works, construction of roads, removal of trees and demolition of structures. The bulk earthworks also include grading of the site to enable the land for future development above the 1 in 100 year flood event.

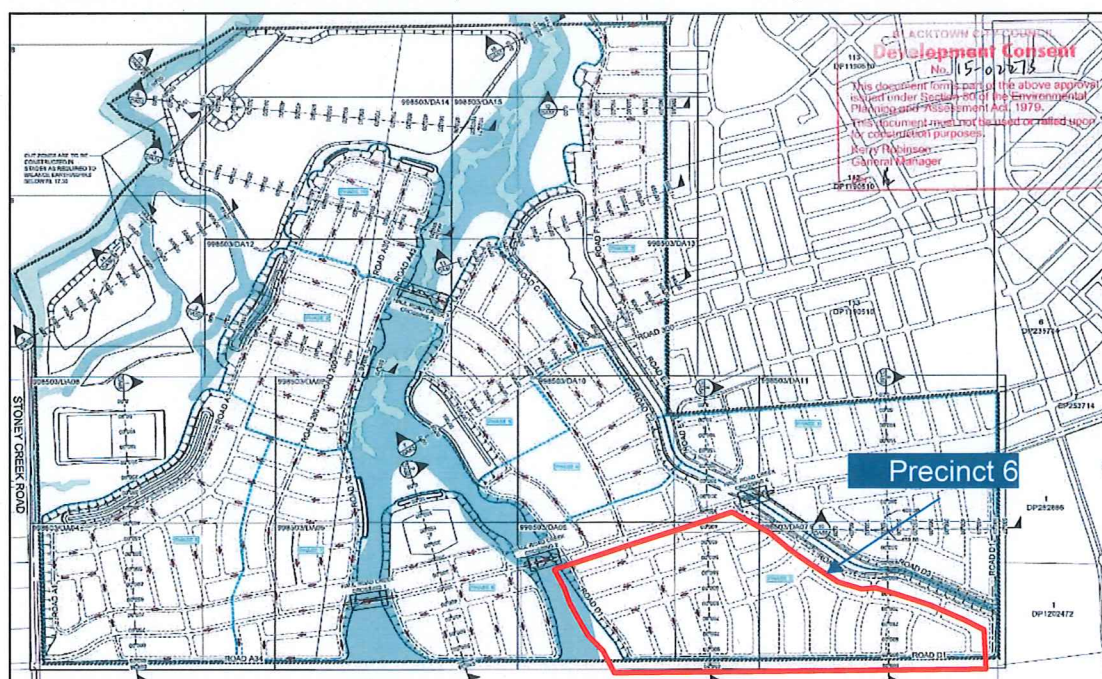


Figure 1: Approved plan under DA-15-02273

- 4.6 Subsequently, the Concept Plan and Stage 1 for Precinct 6 were approved under SPP-17-00044 which granted consent for a total of 945 residential lots within Precinct 6, including 3 superlots along the northern boundary of the site.
- 4.7 Separate Development Applications have been lodged for each of the approved superlots, known as MD7 (Stage 2 of Precinct 6B), MD8 (Stage 3 of Precinct 6B - subject DA) and MD9 (Stage 4 of Precinct 6B). This application relates to MD8 as shown on the lot layout plan below. Applications relating to the other 2 superlots (MD7 and MD9) for construction of dwellings and subdivision have already been approved.

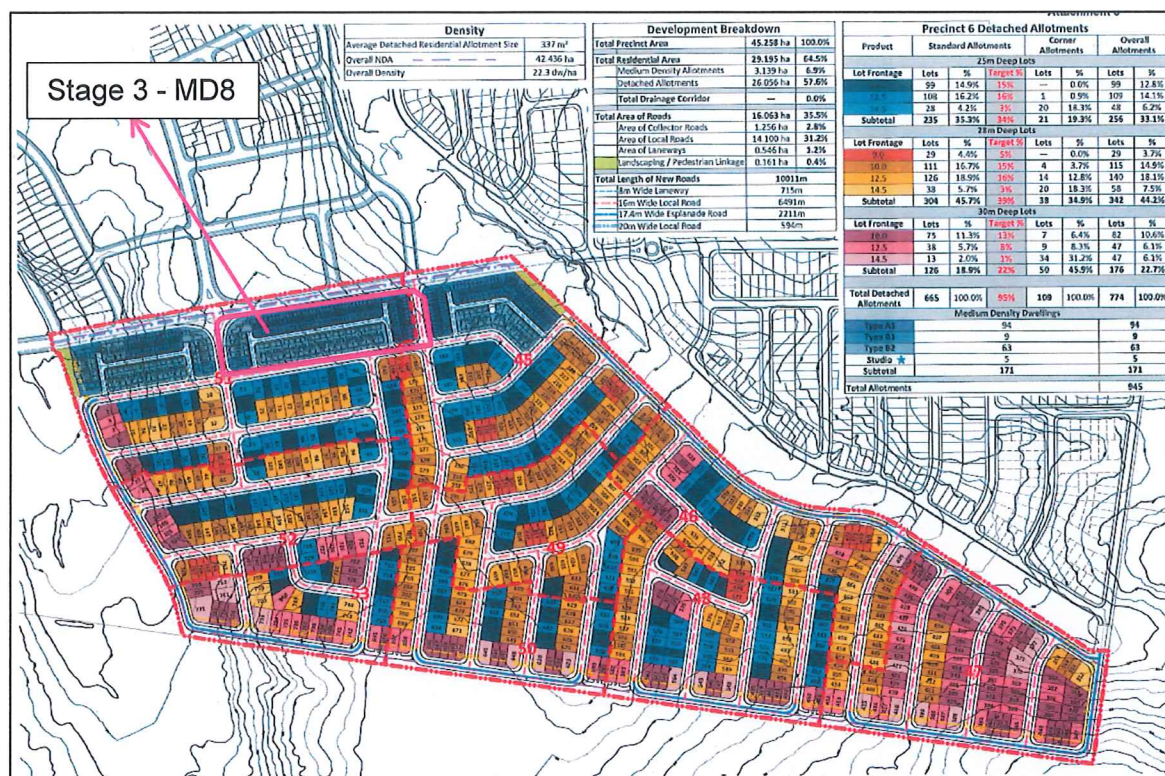


Figure 2: Concept Plan approved under SPP-17-00044 and the location of Stage 3 (subject site)

5 The proposal

5.1 The Development Application has been lodged by Stockland Development Pty Ltd.

5.2 The applicant proposes the development of approved superlot 5190 for:

- construction of 41 attached dwellings, 26 semi-detached dwellings, 2 detached dwellings and 2 studio dwellings
- community title subdivision to create 70 allotments (including Lot 1 for community title road) and strata subdivision of the studio dwellings. The subdivision is proposed to be staged to facilitate the progressive delivery of dwellings across the site
- associated works, including construction of an internal laneway, stormwater drainage, installation of services, landscaping and sediment and erosion control works.

5.3 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 provided at attachment 6, including:

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

- State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP)
- Blacktown City Council Growth Centre Precincts Development Control Plan 2018 (DCP).

7 Key issues

7.1 The applicant has requested a Clause 5.3 variation to the Growth Centres SEPP- Development near zone boundaries

- 7.1.1 The objective of Clause 5.3 is to provide flexibility where the investigation of a site and its surroundings reveals that the extension of a land use which is ordinarily prohibited in its current zone would enable a more logical and appropriate development of the site and still be compatible with the planning objectives.
- 7.1.2 This clause allows flexibility in land uses between the current R2 and R3 zones, of up to 100 m.
- 7.1.3 The attached dwellings that are proposed along the northern boundary of the subject site would, ordinarily, be a prohibited use in the R2 Low Density Residential zone except where distance and locational criteria prescribed by Clause 6.11 of Appendix 12 of the SEPP allows such a use. Clause 6.11 permits 'attached dwellings' on the portion of the subject site along the northern row where it adjoins B2 zoned land and where it is separated only by a public road.
- 7.1.4 As the subject site is also located within 100 m of R3 zoned land, the use of Clause 5.3 for the remainder of the housing product along the northern row has already been supported as part of the concept plan approval (SPP-17-00044). This will provide a consistent row of attached dwellings along the northern boundary in conjunction with the 'attached dwellings' made permissible under Clause 6.11 as noted at 7.1.3 above.
- 7.1.5 On this basis, the proposed attached dwellings along the northern row under this application are permissible under these circumstances in the R2 zone and are supported.

7.2 Non-compliance with front setback requirements under Table 4-2 of BCC Growth Centre Precincts DCP

- 7.2.1 The attached dwellings proposed along the northern boundary of the site and fronting the collector road to the north have a 4 m front setback to the building façade line. This indicates a departure of 0.5 m to the minimum front setback of 4.5 m required under the BCC Growth Centre Precincts DCP. The subject site is located opposite the B2 Local Centre and R3 Medium Density Residential Housing zones and is separated by a road/intersection.
- 7.2.2 The justification provided by the applicant in support of the variation sought for the front setback relies on already approved development for attached dwellings on the adjoining superlots. The attached dwellings on the adjoining site to the west are permitted to have a 3.5 m front setback to the building line as they front directly opposite an open space area (RE1 zoned land).
- 7.2.3 Whilst we previously supported the reduced front setback on the adjoining superlots based on their context (i.e. fronting open space areas) on merit, the reasons provided in this instance are not considered sufficient to justify non-compliance with the control. This site is not located directly opposite to or views on to any open space area and there is no physical constraint on the site to prevent full compliance with the required setback as set out in the DCP.

- 7.2.4 Compliance with the front setback standard in this instance will contribute to the quality and functionality of the private open space of these dwellings proposed to be located in the front setback (especially for solar access and excluding the porch area from private open space).
- 7.2.5 The 4.5 m setback will also provide a better buffer to the existing business zone and medium density residential zone across the road. Therefore, a condition will be imposed to amend the plans prior to issue of the Construction Certificate to show compliance with a minimum of 4.5 m front setback to the attached dwellings along the northern boundary, being proposed Lots 23 to 53.

7.3 Voluntary Planning Agreement and section 7.11 contributions

- 7.3.1 Stockland entered into a Voluntary Planning Agreement (VPA) with Council in 2014 for Precinct 1 of its Elara Estate (the Marsden Park Precinct 1 Planning Agreement). The agreement obligated Stockland to make monetary capped contributions of \$30,000 per lot/dwelling, and to have those contributions 'offset' by the value of land dedications and the carry out of works for public purposes. This was ahead of Council adopting a Section 7.11 Contributions Plan for the Marsden Park Precinct in 2016.
- 7.3.2 Although the Contributions Plan was adopted in 2016, Stockland requested that it continue to use the VPA to apply to further Precincts when they came online, rather than be levied section 7.11 contributions through multiple consents. This 'credit bank' arrangement is administered by Council's Developer Contributions Section and has been used in other large developments. This VPA (now called the Elara Planning Agreement) had been varied several times through deeds of variation, to include future stages (Precincts 1 to 6) of development within Stockland's Elara Estate, including this Development Application. It applies to all of the 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.
- 7.3.3 Council's Developer Contributions Section raised no objection to the grant of the consent provided the relevant capped contribution and the full section 7.11 contributions for the development are included on the consent. This 'advisory condition' is included to comply with State Government requirements for Council to be eligible to apply for Local Infrastructure Growth Scheme (LIGS) funding, for contributions above the relevant cap.

8 Issues raised by the public

- 8.1 The proposed development was not notified as all the land adjoining the subject site is owned by Woorong Park Pty Ltd who is the proponent of this Development Application.

9 External referrals

- 9.1 The Development Application was not required to be referred to any external authorities for comment.

10 Internal referrals

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

Section	Comments
Traffic Management	Acceptable subject to conditions
Engineering	Acceptable subject to conditions
Building	Acceptable subject to conditions
Waste	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 Recommendation

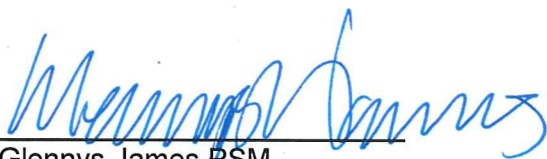
- 1 Approve Development Application SPP-18-00002 subject to the conditions listed in attachment 7.
- 2 Council officers notify the applicant of the Panel's decision.



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