

# Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-71

## Development application

<b>DA number</b>	SPP-19-00005	<b>Date of lodgement</b>	4 July 2019
<b>Applicant</b>	Terry 048 Service Pty Ltd c/- Mecone		
<b>Owner</b>	Terry 048 Service Pty Ltd		
<b>Proposed development</b>	Torrens title subdivision of 1 lot into 2 superlots; civil works including new public roads, construction of multi dwelling housing with 2 levels of basement car parking, and strata subdivision into 145 residential lots and common property which includes 3 private roads.		
<b>Street address</b>	51 Terry Road Rouse Hill (Lot 134 DP 208203)		
<b>Notification period</b>	16 August 2019 - 15 September 2019	<b>Number of submissions</b>	0

## Assessment

<b>Panel criteria</b> Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> <li>Capital investment value (CIV) over \$30 million (DA has CIV of \$83,808,811)</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 (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997)</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</li> <li>Blacktown City Council Growth Centre Precincts Development Control Plan 2010.</li> </ul>
<b>Report prepared by</b>	Luma Araim
<b>Report date</b>	4 September 2020
<b>Recommendation</b>	Approve as a deferred commencement consent, subject to conditions listed in attachment 7.

## Attachments

- 1 Location map
- 2 Aerial image as of (13 August 2020)
- 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

## 8 Variation to Indicative Layout Plan (ILP) and ILP extract

### 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? Not applicable

#### 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**

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- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- The Applicant seeks to vary the Development Control Plan (Indicative Layout Plan) road pattern. We support the variation to the road pattern as it will not have any unacceptable impact on traffic flows.
  - The triangular residue land to the west of the site can be developed with or without the subject land and so is not an isolated site.
  - The proposed adaptable housing meets the accessible requirements of AS 4299.
  - Front setbacks to units fronting a private road are reduced, but this is acceptable as these private roads are part of the common property with shared driveways and not public road.
  - The Applicant seeks a variation to the required 9.5 m landscaped setback to Terry Road for 1 dwelling on the corner of Terry Road and the future east – west road along the northern boundary of the site. The Applicant proposes the dwelling is setback 5.2 m from Terry Road. This is considered acceptable.
  - Noise impact from the Sydney Metro rail line can be addressed by building design conditions.
  - Our engineers have recommended deferred commencement conditions to address unresolved stormwater and drainage matters. The Applicant will be given 24 months to resolve these issues. The consent can be activated once these issues are addressed to Council's satisfaction.
- 1.2 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 way of conditions of consent.
- 1.3 The application is therefore assessed as 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 Development Application subject to the recommended conditions listed in attachment 7.

## **2 Location**

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- 2.1 The site is located in the suburb of Rouse Hill approximately 600 m from Tallawong Metro Station and approximately 500 m from the Rouse Hill Strategic Centre.
- 2.2 The site is located at the end of Terry Road cul-de-sac and is surrounded by a mix of developed residential sites and land under development. The area in the vicinity of the site includes new housing with open space areas and new schools. The land immediately to the south of the site is the Sydney Metro Northwest rail line.
- 2.3 The site is located in the Tallawong Station Precinct (former Area 20 Precinct) of the North West Growth Area.
- 2.4 The location of the site is shown at attachment 1.

## **3 Site description**

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- 3.1 The site is legally identified as Lot 134 in DP 208203, 51 Terry Road, Rouse Hill.
- 3.2 The site is near-rectangular in shape, measuring approximately 100m along the Terry Road frontage and up to approximately 370 m deep.



- 3.3 The site has an area of approximately 3.7 ha and has a gentle grade of between 2 - 6 degrees down towards the western portion of the site where an existing farm dam is situated, adjacent to the cul-de-sac of Terry Road.
- 3.4 The site has been cleared. Demolition and bulk earthworks were carried out under separate applications.
- 3.5 The site is now vacant with a scattering of trees, with its former use being a caravan park.
- 3.6 An aerial image of the site and surrounding area is at attachment 2.

## **4 Background**

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- 4.1 The site is zoned R3 Medium Density Residential under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the Growth Centres SEPP). The zoning plan for the site and surrounds is at attachment 3.
- 4.2 DA-19-01368 for bulk earthworks, tree removal and dewatering and filling of existing farm dam was approved on 3 April 2020. This consent has been acted upon and the site is currently being cleared in preparation for future development.
- 4.3 Demolition work was carried out under CDC No. J/75781/01 which was approved by a private certifier on 20 April 2020.

## **5 The proposal**

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- 5.1 The DA has been lodged by Terry 048 Service Pty Ltd c/- Mecone.
- 5.2 The Applicant proposes to construct a multi-dwelling housing development consisting of the following:
- Torrens title subdivision of 1 lot into 2 and construction of public roads involving 2 proposed variations to the development control plan road pattern shown on the Indicative Layout Plan (ILP), including the deletion of the north - south road and replacing this road with 3 private roads, and shifting the other internal north - south road. The changes are illustrated at attachment 8.
  - Construction of 145 multi dwelling units with a 2 levels of basement car parking.
  - Associated landscaping works, street planting and drainage works.
  - Strata subdivision into 145 residential lots and common property which will include the private roads, car park, pool, amenities.
- 5.3 Other details about the proposal are at attachment 4.
- 5.4 A copy of the development plans is at attachment 5.

## **6 Assessment against planning controls**

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- 6.1 A full assessment of the Development Application against relevant planning controls is at attachment 6.

## **7 Key issues**

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### **7.1 Variation to the development control plan road pattern**

- 7.1.1 The Applicant seeks to vary the development control plan road pattern shown on the ILP. The proposal is to delete the north – south local public road running through the middle of the site and replace this road with 3 one-way private roads and also realigning further west the other north – south local public road running

through the western part of the site. Refer to attachment 8 for an ILP extract showing the current road pattern and the changes proposed by the applicant.

- 7.1.2 We met with the Applicant on 24 February 2020 and confirmed that the removal of one road and relocation of another is satisfactory subject to the following:
- the variation must not have unacceptable adverse impacts on traffic flow
  - additional visitor parking must be provided to compensate for the loss of on-street parking on the removed ILP road.
- 7.1.3 The submitted Traffic and Parking Impact Assessment dated April 2019 confirms that the proposed variations have no unacceptable adverse traffic flow impacts and the proposal will provide 9 additional on-street visitor spaces along the proposed private roads within the common property.
- 7.1.4 The road pattern variations were included as part of the proposal that was advertised and notified to potentially affected neighbours. We received no objections.
- 7.1.5 The application was also referred to our Traffic Management Section and no objections were raised. Therefore, the modifications to the designated road pattern proposed by the Applicant are considered acceptable.

## **7.2 Triangular residue land**

- 7.2.1 A parcel of land owned by Transport for NSW (TfNSW), is located to the western end of the site, with its own frontage to Terry Road. It is known as Lot 2812, DP 1253963, having an area of over 1.41 ha. However, upon future redevelopment of this land, the extension of Terry Road further south will result in a small triangular strip of land being isolated from the rest of the land on the eastern side of the Terry Road extension adjacent to this site. It is likely that this future small residue will have an area of approximately 1,252 m<sup>2</sup> and dimensions of 23.18 m along the southern edge and 92.95 m along the eastern edge. However, this residue area does not presently exist as a separate lot and so can't be sold to this developer. Refer to attachment 1 for location of future residue.
- 7.2.2 The Applicant has advised that they have been actively engaged in discussions with TfNSW and other stakeholders (Sydney Metro and Landcom) regarding this residual land since June 2018, prior to the lodgement of the DA in July 2019. However, the Applicant's attempts to include the land as part of the DA have been unsuccessful. A timeline of the discussions provided to Council by the Applicant is provided below:
- 13 June 2018: - TfNSW confirms no decision has been made in regards to the surplus land.
  - 18 September 2018: - Sydney Metro does not consent to the inclusion of the land into the DA.
  - 13 January 2020: - The Applicant contacted TfNSW to provide options and request a meeting.
  - 6 February 2020: - Meeting arranged between the Applicant and Sydney Metro/Landcom. Landcom indicated that the land has development potential on its own.
  - 24 February 2020: - Landcom indicated that the land will go to public tender in May 2020.
  - 04 March 2020:- The Applicant requested further information on the valuation and a further meeting.



- 7.2.3 The Applicant argues that the principles to be applied in assessing the feasibility of amalgamation are set out by Commissioner Tuor in *Karavellas v Sutherland Shire Council 92004) NSWLEC 251*. However, these principles do not neatly fit the circumstances of this DA given that the neighbouring landowner is a government entity (TfNSW) and has a lengthy divestment process. TfNSW has indicated that the land is likely to go on public tender and they may participate in the tender process provided the terms of the deal are commercially viable for this project.
- 7.2.4 The Applicant has responded to our concerns advising that the residue land is not isolated in a technical planning sense. The land is more than 1,000 m<sup>2</sup> in area, and the land could potentially accommodate 2 - 3 dwellings in the wider portion of the land as a self-developed site.
- 7.2.5 The Applicant further states that the residual TfNSW land may be able to be consolidated into this development in the future, but this proposed development does not depend on this occurring. If the Applicant takes ownership of the land in the future, then a separate application will be necessary to allow for a suitable development on the site. In the meantime, Council is of the view that the residual land tender process and subject DA site can still proceed separately with neither being reliant upon the other for an acceptable development outcome.
- 7.2.6 On the basis of this information, we are satisfied that this DA will not result in an isolated lot incapable of development.
- 7.3 The proposed adaptable housing in this proposal meet the accessible requirements in AS 4299.**
- 7.3.1 16 multi dwelling housing units have been nominated as adaptable. 4 dwellings in Block E having 3 storeys with basement car parking and 12 in Block F having 2 storeys. The Applicant was required to consider providing suitable single level accommodation at ground level.
- 7.3.2 The layout of the proposed adaptable dwellings has been amended to include a bedroom at ground level. This results in full single level accommodation at ground level.
- 7.3.3 Access has been provided from accessible car parking spaces by means of a lift. Access has also been provided from the main pedestrian entry at the site boundary by means of a pathway/ramp.
- 7.3.4 A Statement of Compliance Access for People with a Disability was submitted in support of the proposal, which confirms compliance can be achieved with access provisions of the BCA and the essential requirements of AS4299 for Adaptable Housing.
- 7.3.5 It is considered that the 16 dwellings provide suitable adaptable living on the ground floor. This form of accommodation provides a variety of housing types for the community and meets the objectives of the R3 Medium Density Residential zone.
- 7.4 The front setback of 3.5 m to the private road which is acceptable in the circumstances**
- 7.4.1 A minimum 4.5 m front setback is required to be provided to the building façade line, with 3 m to the articulation zone from a public road. However, there is no minimum front setback from a private road. The Applicant proposes a 3.5 m front setback from the internal private roads.
- 7.4.2 The proposed front setback to the internal private roads is considered acceptable in these circumstances given these internal roads will be part of the private common property which can be narrower than public roads. There are no building

setback requirements to private roads in the Growth Centres DCP. These private roads act more like a shared driveway and not like a public road.

## **7.5 The applicant seeks a variation to the landscape setback to Terry Road**

- 7.5.1 In accordance with the Schedule 4 of the Growth Centres DCP, a 5 m landscaped buffer to Terry Road is required in addition to the 4.5 m building setback. The proposed development seeks a minor variation to the 5 m landscaped setback for 1 dwelling on the corner of Terry Road and the future east – west road along the northern boundary of the site in Block F. The Applicant proposes a 5.2 m setback on the corner, that gradually increases to the 9.5 m setback along the Terry Road frontage. This point encroachment of 4.3 m is considered acceptable. The corner dwelling complies with its setbacks to the future east – west road along the northern boundary.
- 7.5.2 Correspondence from Department of Planning, Industry and Environment (DPIE) obtained by the Applicant states that the 5 m landscaped setback was directly influenced by the consideration of heritage view lines from Rouse Hill House. However, given that Terry Road runs perpendicular to views lines from Rouse Hill House at this location, the landscaped setback will not function to widen an existing view line. Presumably, the purpose of the increased setback is to accommodate additional trees that would shield development on the site when seen from Rouse Hill House. However, future development to the north of the site will screen the point encroachment, such that it will not be visible from the Rouse Hill House.
- 7.5.3 The landscaped 5 m setback is not necessary for achieving effective tree planting. The proposed 5.2 m will be sufficient to accommodate canopy tree planting in addition to the proposed street tree planting, which will serve to soften the development appearance.
- 7.5.4 The Public Domain Strategy that was prepared as part of the Area 20 Precinct Plan, suggests that the widened reserve can also benefit local connectivity and help maintain rural character. These benefits can be achieved as part of the proposed landscape strategy.
- 7.5.5 The Applicant proposes only 2 storey dwellings above basement parking at this end of the site even though 3 storey dwellings are proposed on the rest of the site. The 2 storey height will reduce the bulk and scale of the development to domestic dwelling scale that will not obstruct the view lines from Rouse Hill House.
- 7.5.6 Council's Heritage Planner raised no objections on the basis that Terry Road runs perpendicular to the view lines from Rouse Hill House at this location, provided more tree planting is done at the north eastern corner of the development to compensate for the reduced tree planting on the north – west corner of the site. This will be included as a condition of the consent. So, the variation to reduce the landscape setback is reasonable as the setback will not function to widen the existing view lines.
- 7.5.7 The non-compliance is considered acceptable in these circumstances given that there would be no adverse impact on view lines to Rouse Hill House and that the proposed landscaping of the 5.2 m building setback will still provide an avenue of planting adequate to provide a treed streetscape for a medium density development proposal. Council's tree officer has recommended street tree conditions be included in the conditions of consent. On this basis the variation is supported.



## 7.6 Noise impact from rail infrastructure

- 7.6.1 We are required to consider rail noise impacts from Sydney Metro trains on the amenity of the proposed multi-dwelling housing development.
- 7.6.2 A Rail Noise Impact Assessment report was submitted with the application. The report has assessed the rail noise intrusion at the site and compared it with the noise criteria required by Council and other relevant standards.
- 7.6.3 Based on the noise impact study conducted, the proposed development complies with the established noise criteria subject to the recommendations of the report which are outlined in attachment 4. These recommendations will be included in conditions of the consent.
- 7.6.4 Our Environmental Health Officer reviewed the proposal and raised no objections subject to conditions. The proposal was also referred to Sydney Metro and they raised no objections subject to conditions. The conditions include the submission of an acoustic verification assessment report to the Certifying Authority, Council and Sydney Metro certifying that the completed development meets the requirements of the Infrastructure SEPP, DPIE's Development Assessment Guideline and any other noise and vibration requirements imposed by this consent.

## 7.7 Drainage and Engineering issues can be addressed by Deferred commencement conditions

- 7.7.1 Our stormwater and drainage engineers recommend deferred commencement conditions to ensure that the Applicant suitably directs all its stormwater runoff from this development site into Council's existing drainage system without impacting on any adjoining owner's land. This will also necessitate the Applicant acquiring an easement to drain water through downstream properties. When the easement is provided then modified drainage modelling to reflect the easement works is also to be submitted. The applicant will be given 24 months to satisfy all the drainage issues.

## 8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers in the locality between 16 August and 15 September 2019. The DA was also advertised in the local newspapers and a sign was erected on the site.
- 8.2 We received no submissions.

## 9 External referrals

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

Authority	Comments
Natural Resources Access Regulator (NRAR)	Due to the existing farm dam the application was referred to NRAR who indicated that the application is acceptable and no conditions are required.
Sydney Metro	Acceptable subject to conditions.
Transport for NSW (former RMS)	No objections subject to advisory conditions. TfNSW advised it has no approved proposal to acquire any right or interest in the subject property.

## 10 Internal referrals

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

Section	Comments
Building	Acceptable subject to conditions.
Traffic	Acceptable.
Development Engineers	Acceptable subject to deferred commencement conditions.
Drainage Engineer	Acceptable subject to deferred commencement conditions.
Waste	Acceptable subject to conditions.
City Architect	Acceptable.
Environmental Health	Acceptable subject to conditions.
Open Space Infrastructure	Acceptable subject to conditions
Section 7.11 Contributions	Acceptable subject to conditions.
Heritage	No objections subject to conditions.
Land Information	No objections.

## 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 deferred commencement conditions.

## 12 Recommendation

- 1 Approve Development Application SPP-19-00005 for the reasons listed below, and subject to the deferred commencement conditions listed in attachment 7.
  - a The proposal adequately satisfies the relevant State and local planning provisions.
  - b The proposal is in the public interest.
  - c The site is considered suitable for the proposed development.
  - d The proposal will provide housing products and diversity that will add to the current housing supply.
- 2 Council officers to notify the applicant of the Panel's decision.



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