

<b>DATE OF DETERMINATION</b>	24 December 2020
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli
<b>APOLOGIES</b>	Lara Symkowiak, Theresa Fedeli
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 1 December 2020.

#### **MATTER DETERMINED**

PPSSWC-17 – Camden – DA/2019/598/1 at 28 Ingleburn Road, Leppington – Construction of two levels of basement parking (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

#### **Development application**

The majority of the panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 4:1.

#### **REASONS FOR THE DECISION**

The majority of the panel determined to approve the application generally for the reasons outlined in the council assessment report, but having regard to and subject to the following observations.

##### Generally

- The residential flat development the subject of this determination is part of an integrated scheme for the development Lot 84 DP8979, following upon a separate approval, granted by the NSW Land and Environment Court on the 12<sup>th</sup> December 2018, for the demolition of existing structures, tree removal, subdivision of the land into three (3) Torrens title lots and construction of roads, internal landscaping and street tree planting (DA/1468/2016).. The concurrent planning for the development of the three new residential lots together with the dedication of land for adjacent local roads allows for an integrated design across the parent parcel which delivers improved planning outcomes.
- Together, development of the new residential buildings to be concurrently approved across the three subdivided lots will make a significant contribution to increasing capacity for residential development within Leppington. As such, the development is consistent with the objectives of the Western Sydney District Plan.
- Council assessment staff report that the development is largely consistent with the Design Quality Principles and the Apartment Design Guide, observing that the development provides an articulated and varied façade design that has developed positively during the planning process. In particular, the proposal complies with the visual privacy / building separation design criteria of the ADG, with variations to the boundary setbacks acceptable given that they are part of the efforts to articulate the built form to avoid a blank presentation to the adjacent streets. Overall, the Council assessment staff report the building to be of a sufficiently high standard and architectural merit so as to make a desirable contribution to the planned more

dense residential development of the Austral and Leppington North Precinct. Located immediately adjacent to the Lockies Hotel to the south, it will allow for progress in the transition to a planned more urban form of development within the South West Growth Centre.

- The proposal was assessed positively by Council to comply with the SEPP 65 design quality principles, achieving a high standard and of architectural merit that will assist in establishing the Leppington Town Centre. It was particularly observed that while residential flat building development will be new to the area, the development has a distinct four storey street wall which will provide a human scale to the proposed development when viewed from the public domain.
- The DA was referred to TfNSW pursuant to the ISEPP who made no adverse comments.
- Council staff have assessed a phase two detailed contamination assessment and were satisfied that the site was suitable for residential development.
- The associated site works (including earthworks, drainage and landscaping) have been considered by the Council and have been judged to be acceptable.

#### Density

- “Minimum lot size by density bands” are described for the locality by Control 3.1.1(2) and the table at Figure 3-1 in the Camden Growth Centre Precincts Development Control Plan. However, the table at clause 1.3.2 of that DCP indicates that Part 3 is not intended to apply directly to residential flat development (although Table 3-2 in that Part has at least one control applying exclusively to the minimum lot size of residential flat development which is difficult to reconcile with that exclusion).
- The applicable band of development applying to the area generally is:

<b>25 - 30 dw/Ha</b>	<ul style="list-style-type: none"> <li>▪ Generally located within the walking catchment of centres, corridors and / or rail based public transport.</li> <li>▪ Consists of predominantly small lot housing forms with some multi-dwelling housing, manor homes and residential flat buildings located close to the local centre and public transport.</li> <li>▪ Generally single and double storey dwellings with some 3 storey buildings.</li> <li>▪ Incorporates some laneways and shared driveways.</li> <li>▪ Be designed to provide for activation of the public domain, including streets and public open space through the orientation and design of buildings and communal spaces.</li> <li>▪ Mainly urban streetscapes, some suburban streetscapes. . See Figure 3-2</li> </ul>
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- Even if it does not directly apply to residential flat building development, that ‘band of development’ gives some indication of the intended character of the surrounding locality. It notably anticipates “residential flat buildings close to the local centre and public transport.”
- A dwelling per hectare standard (as opposed to a floor space ratio control) would generally be expected to allow for an integrated development of a large site including roads and any public spaces created. In this case the new dedicated roads should be allowed for. Residential flat building development would be expected to achieve a higher density yield than other forms of residential development, which is presumably why it is excluded from the application of the control.
- Importantly, the height control and setback development standards permissible for residential flat development applying ADG minimums anticipate far higher yields of dwellings per hectare than the 30 dwellings per hectare allowed for in the DCP for other forms of development. The discrepancy is so great that it is hard to see how any other form of development would be comparatively profitable enough on larger lots to be attractive to developers. The result is that the anticipated form of development described in Figure 3-1 may never eventuate.
- A ‘dwelling per hectare’ control is not a useful guide to controlling density, but if not even that control is to apply to residential flat buildings, then some other form of control is necessary to provide more useful guidance to manage development in Growth Centre portion of Leppington. If the only numeric controls to apply are height and setbacks, then further urgent work is required to explain how the anticipated mix of development described in the DCP is to be delivered.
- That urgent need has been repeatedly raised by the Panel in previous assessment reports, discussions with senior Council planning staff and in communications to the Department of Planning, without meaningful guidance having yet been received.

- This issue for planning in the Growth Centre portion of Leppington requires immediate attention in the Panel's view.
- With this development, the area of lot 84 has been surveyed to be 2.683 hectares. The development of lot 84 (Lot 1 – 93, Lot 2 – 95 and Lot 3 – 119 and including associated dedicated roads) will yield around 114 dwellings per hectare. If dedicated roads are not included in the calculation, then the yield climbs still higher in excess of 130 dwellings per hectare (the Council assessment report calculated a density based on the three development lots of 143.9 dwellings per hectare).
- Council assessment staff have reported that proposed density of the development to be acceptable given the absence of impacts on adjoining land, and specifically that it does not result in adverse impacts in respect to overshadowing or loss of visual privacy upon adjoining properties.
- The proposed density does not result in unacceptably adverse impacts in respect to overshadowing or loss of visual privacy upon adjoining properties, nor is the development considered to be an unacceptable built form having regard to applicable controls and the ADG.
- The Panel accepts the advice of the Council assessment report that the proposed higher densities are appropriate in this location given its location in the Town Centre (albeit toward its southern extremity) with sufficient access to an emerging commercial centre, employment lands and public transport.

### CONDITIONS

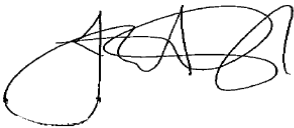


The development application was approved subject to the conditions in the council assessment report, but adapted as necessary to include the following requirement.

“A photovoltaic roof top solar system to achieve a minimum rated electrical output of 30.0 peak kW (including associated battery storage) shall be provided for the development. Details demonstrating compliance shall be provided to the certifier with the Construction Certificate Application.”

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

Notably, Louise Camenzuli agreed in substance with the matters reported above, but was concerned that confirmation from the Council ought to be sought and received that the development reflected the intended density for this part of Leppington, and an explanation of how the desired character of Leppington was to be achieved with this form of development replicated across Leppington, before the determination of the application.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 Nicole Gurran	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-17 – Camden – DA/2019/598/1
2	PROPOSED DEVELOPMENT	Construction of two levels of basement parking, two x six storey residential flat buildings, containing 95 units upon proposed Lot 2 in approved subdivision of Lot 84 DP8979.
3	STREET ADDRESS	28 Ingleburn Road, Leppington
4	APPLICANT/OWNER	Applicant: Rohan Dickson Owner: Balintore Ingleburn Rd Pty Ltd ATF Balintore Leppington Unit Trust
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (State and Regional Development) 2011.</li> <li>State Environmental Planning Policy (Sydney Region Growth Centres) 2006.</li> <li>State Environmental Planning Policy (Infrastructure) 2007.</li> <li>State Environmental Planning Policy No 55 - Remediation of Land.</li> <li>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.</li> <li>Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River.</li> <li>Apartment Design Guide.</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Camden Development Control Plan 2011.</li> <li>Camden Growth Centre Precincts Development Control Plan.</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 2 December 2020</li> <li>Written submissions during public exhibition: Nil</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: Monday, 30 September 2019 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald and Lara Symkowiak</li> <li><u>Council assessment staff</u>: Adam Sampson, Stephen Pratt and Jamie Erken</li> </ul> </li> <li>Site inspection: Monday, 30 September 2019</li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald and Lara Symkowiak</li> <li>○ <u>Council assessment staff</u>: Adam Sampson, Stephen Pratt and Jamie Erken</li> </ul> <ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation: Monday, 7 December 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran and Lara Symkowiak</li> <li>○ <u>Council assessment staff</u>: Adam Sampson, Ryan Pritchard and Jamie Erken</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report