State Environmental Planning Policy (Precincts – Western Parkland City) 2021

| **Clause** | **Assessment** | **Compliance** |
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| **Appendix 2, 2.3 – Zone objectives and land use table**  The land use table for each zone sets out what development is permitted without consent, permitted with consent and prohibited.  The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within a zone.  The relevant B4 Mixed Use zone objectives for this site are:   * To provide a mixture of compatible land uses. * To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. * To encourage development that supports or complements the primary office and retail functions of the Neighbourhood Centre Zone and the Local Centre Zone. * To encourage development providing services to the surrounding community. * To permit development that adds to the vitality and diversity of commercial and retail centres while not prejudicing their principal function.   The relevant R1 General Residential zone objectives for this site are:   * To provide for the housing needs of the community. * To provide for a variety of housing types and densities. * To enable other land uses that provide facilities or services to meet the day to day needs of residents. * To support the wellbeing of the community, including educational, recreational, community, religious and other activities and, where appropriate, neighbourhood shops if there will be no adverse effect on the amenity of proposed or existing nearby residential development. * To allow for small scale kiosks, function centres, restaurants and markets that support the primary function and use of recreation areas, public open space and recreation facilities located within residential areas. | The proposal is characterised as a ***mixed-use development*** comprised of:   * an ***entertainment facility*** (cinema) * an ***indoor recreation facility*** (gym) * a ***neighbourhood supermarket*** * various ***shops, retail premises, and commercial premises*** * ***food and drink premises*** * a ***centre-based child care centre*** * ***shop top housing*** and ***residential flat building*** (where the lower ground floor units are not directly located above ***shops***) * a new ***road*** (private access laneway)   Each of these uses is permitted with consent in the B4 Mixed Use zone. Not all the commercial uses are automatically permissible in the R1 zone, however Clause 5.3 of the SEPP provides flexibility.  The development is consistent with the objectives of the B4 zone. It includes a diverse range of commercial uses that will support the economic viability of the precinct, generate employment opportunities and provide services and amenities for local workers and residents.  The development is also consistent with the objectives of the R1 zone. It will increase housing diversity and provide facilities that will support the needs of local residents and families, including a child care centre and a variety of retail, commercial and entertainment uses. | Yes |
| **Appendix 2, 4.1 – Minimum subdivision lot size**  The size of any lot resulting from any such subdivision of land to which this section applies is not to be less than the minimum size shown on the [Lot Size Map](https://www.planningportal.nsw.gov.au/publications/environmental-planning-instruments/state-environmental-planning-policy-precincts-western-parkland-city-2021) in relation to that land. | The site is within Area A of the Lot Size Map which prescribes a minimum lot size of 125m2. The combined area of Lots 2, 3 and 4 will be 23,071m2 or 2.307ha. | Yes |
| **Appendix 2, 4.1A – Minimum lot sizes for other development**  Development must not be carried out on a lot in Zone R1 General Residential or Zone R3 Medium Density Residential for any of the following purposes if the area of the lot is less than the area specified below in relation to those purposes:  (d) residential flat building – 1,000m2. | The site area exceeds the SEPPs minimum lot size for the type of residential accommodation proposed. | Yes |
| **Appendix 2, 4.1C – Residential density – Turner Road Precinct**  Development consent must not be granted to the subdivision of land intended to be used for residential purposes within the Turner Road Precinct unless the consent authority is satisfied that:  (a)  a development control plan has been prepared providing for not less than 4,020 new dwellings within the Precinct and containing provisions to encourage a mix of dwelling types to be provided, and  (b)  the granting of consent would not preclude or impede that number of dwellings within the Precinct. | The Turner Road Development Control Plan 2007 (DCP) contains site specific controls for the entertainment precinct.  The 4,020 dwelling target has already been achieved however there is no ***maximum*** dwelling limit prescribed by the DCP or the SEPP. | Yes |
| **Appendix 2, 4.3 Height of buildings**  The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](https://www.planningportal.nsw.gov.au/publications/environmental-planning-instruments/state-environmental-planning-policy-precincts-western-parkland-city-2021).  Area O = Maximum 16m  Area P = Maximum 18m  ***Building height*** is the vertical distance from ground level (existing) to the highest point of the building including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like. | Building A (16m HOB) Max RL 141.9 (parapet) – 126.301 = 15.599m (complies).  Building A (18m HOB) Max RL 145.3 (lift overrun) – 128.735 = 16.565m (complies).  Building B (18m HOB) Max RL 150.232 (plant) – 131.646 = **18.586m (3.2% variation)**  Building C (18m HOB) Max RL151.625 (plant) – 132.354 = **19.271m (6.6% variation)**  Building D (18m HOB) Max RL 151.625 (plant) – 131.386 = **20.239 (11.1% variation)**  Building E (18m HOB) Max RL 147.155 (plant) – 128.469 = **18.686 (3.7% variation)**  Building F (18m HOB) Max RL 150.2 (lift overrun) – 130.897 = **19.303m (6.8% variation)**  Building G (18m HOB) Max RL 151.625 (plant) – 132.001 = **19.624 (8.3% variation)**  Building H (18m HOB) Max RL 151.625 (plant) – 133.089 = **18.536 (2.9% variation)**  Building I (18m HOB) Max RL 151.625 (plant) – 133.089 = **18.536 (2.9% variation)**  Building J (18m HOB) Max RL 150.625 (plant) – 130.17 = **20.455 (12% variation)**  Building J (16m HOB) Max RL 142.4 (parapet) – 126.301 – **16.099 (0.6% variation)**  The applicant has sought consent for the above height standard contraventions via a Clause 4.6 written request, which is attached to this report. An assessment of the request is included in the main assessment report. | **No, partial non-compliances but supported on merit as per Clause 4.6 Written Request** |
| **Appendix 2, 4.6 – Exceptions to development standards**  Consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.  Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that:   1. compliance with the development standard is unreasonable or unnecessary in the circumstances, and 2. there are sufficient environmental planning grounds to justify the contravention of the development standard. | The applicant’s Clause 4.6 written request is attached. An assessment is included in the main assessment report. | Yes |
| **Appendix 2, 5.3 – Development near zone boundaries**  The objective of this section is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.  This section applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 50 metres.  Despite the provisions of this Precinct Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this section applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:   1. the development is not inconsistent with the objectives for development in both zones, and   (b)  the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land. | The B4 and R1 zone boundaries do not align with the existing road layout and subdivision pattern approved under DA/2015/1230/1.  As a result, some of the proposed retail, commercial and entertainment uses protrude into the R1 portion of the site and are not permissible.  The R1 portion is within 50m of the B4 portion. As such, the applicant has sought consent pursuant to the provisions of Clause 5.3 for permissibility.  Council staff are satisfied that the commercial uses proposed in the R1 portion are not inconsistent with the objectives of the R1 zone; and that they are compatible with the surrounding land uses. The inclusion of these uses within the extent of the existing lot boundaries will enable the efficient and timely development of land.  The request to utilise Clause 5.3 is therefore supported. | Yes |
| **Appendix 2, 5.10 Heritage conservation**  Development consent is required for demolishing, altering, disturbing, excavating or subdividing heritage items or buildings, structures or tees within heritage conservation areas.  Before granting consent to the carrying out of development in an Aboriginal place of heritage significance the consent authority must:   1. consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and 2. notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent. | The site does not contain, and is not in proximity to, any heritage items or conservation areas. State heritage Item I81 (Gledswood Homestead) is located 800m north of the precinct. The proposal is consistent with the minimum ground level RL of 132 as prescribed by the DCP as well as the DCP’s setback controls and the SEPP’s height limit (except for minor encroachments in Area P).  Aboriginal heritage was previously assessed under bulk earthworks DA/2016/1180/1. The heritage studies completed at the precinct rezoning stage did not identify any areas of Aboriginal archaeological significance, and the site is not included in the DCP’s Figure 22 – Aboriginal Archaeological Conservation Areas Map.  Due to the site’s historical disturbance from bulk earthworks, the proposed development is unlikely to harm any remaining Aboriginal objects. As such, an Aboriginal Heritage Impact Permit is not required. A standard condition for unexpected finds is recommended. | Yes |
| **Appendix 2, 6.1 – Public utility infrastructure**  Development consent must not be granted for development on land unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.  In this section, ***public utility infrastructure*** includes infrastructure for any of the following.  (a)   the supply of water,  (b)   the supply of electricity,  (c)   the disposal and management of sewage. | Sydney Water have confirmed that essential water and sewer infrastructure is available to service the development, with minor amplifications likely required for sewer pipes, subject to further assessment at the Section 73 Certificate stage.  Endeavour Energy has confirmed that the proposal needs to be assessed by an accredited service provider to determine whether the two padmount substations proposed on the lower ground floor plan (eastern end near Providence Drive) will sufficiently service the development and advise on the relevant easement requirements. Extensions and augmentations of the existing network will also be required.  Conditions are recommended to ensure all service authority approvals are obtained prior to the issue of any Construction Certificate. | Yes |
| **Appendix 2, 6.6 – Development in special areas**  The consent authority must not grant development consent for development on land in a special area unless a development control plan that provides for detailed development controls has been prepared for the land. | The site is within Area H – Entertainment Precinct.  The Turner Road Development Control Plan 2007 (DCP) contains site specific controls for the entertainment precinct. An assessment of these is included in the DCP assessment table. | Yes |

State Environmental Planning Policy (Sustainable Buildings) 2022

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| **Section** | **Assessment** | **Compliance** |
| **2.1 – Standards for BASIX development and BASIX optional development**  Schedule 1 sets out the energy, water use and thermal standards that apply for the erection of new BASIX buildings.  Development consent must not be granted to development to which the standards specified in Schedule 1 apply unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified. | The applicant has submitted a valid BASIX Certificate demonstrating compliance with the requirements of Schedule 1.  The requirements of the certificate have been adequately demonstrated on the DA plans.  Conditions are recommended to ensure compliance. | Yes |
| **3.2 – Development consent for non-residential development**  In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following:   1. the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials, 2. a reduction in peak demand for electricity, including through the use of energy efficient technology, 3. a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design, 4. the generation and storage of renewable energy, 5. the metering and monitoring of energy consumption, 6. the minimisation of the consumption of potable water.   Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified. | Satisfactory information has been provided to demonstrate compliance with this clause.  Conditions are recommended to ensure compliance. | Yes |

State Environmental Planning Policy (Housing) 2021

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| **Section** | **Assessment** | **Compliance** |
| **145 – Referral to design review panel for development applications**  Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development. | The Design Review Panel (DRP) were consulted on the application during the pre-DA stage and during the assessment of the DA. The feedback from the Panel has been considered in the assessment, and amendments have been made including:   * increased building separation * reduction in height by one storey for Building A and half of building J (Huntington Street) * deletion of 27 apartments * increased deep soil zones from 1.7% to 7% and improved solar access to useable communal open space on ground floor * removal of conflicting land uses on ground floor * improved layout and cross flow ventilation for the child care centre * improvements to the private laneway for cars and re-design of loading dock * re-organisation of basement car park entries and layouts to improve amenity * more defined lobby entries * continuous east/west pedestrian access through the middle of the site * softer colours to mansard roofs (grey, not dark black)   Council’s urban design officer has reviewed the revised plans and is satisfied that the proposed design amendments have addressed the primary concerns raised by the DRP.  A condition is recommended for further seating within the primary DSZ in the north-western corner of the site. | Yes |
| **147 – Determination of development applications for residential apartment development**  Development consent must not be granted to residential apartment development unless the consent authority has considered the following:   1. the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9, 2. the Apartment Design Guide, 3. any advice received from a design review panel within 14 days after the consent authority referred the development application to the panel. | 1. An assessment against the Schedule 9 Design Principles is included in the main assessment report. 2. An assessment against the Apartment Design Guide (ADG) is included as a separate attachment. 3. Council staff have considered the advice received from the DRP and amendments have been made to the application resulting in it being recommended for approval by Council staff. | Yes |
| **148 – Non-discretionary development standards for residential development – the Act, s 4.15**  The following are non-discretionary development standards:   1. the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide, 2. the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide, 3. the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide. | Council has not requested greater car parking spaces, internal apartment area or ceiling heights than the requirements outlined in the ADG. | Yes |
| **149 – Apartment Design Guide prevails over development control plans**  A requirement, standard or control for residential apartment development that is specified in a development control plan and relates to the following matters has no effect if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter:   1. visual privacy, 2. solar and daylight access, 3. common circulation and spaces, 4. apartment size and layout, 5. ceiling heights, 6. private open space and balconies, 7. natural ventilation, 8. storage. | Council has not requested greater compliance for the matters listed, than the minimum requirements outlined in the ADG. | Yes |

State Environmental Planning Policy (Transport and Infrastructure) 2021

| **Clause** | **Assessment** | **Compliance** |
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| **2.48 – Determination of development application – other development**  For development comprising the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole, the consent authority must refer the application to the supply authority and consider comments received within 21 days. | The development involves peripheral works around the boundary of the site, in proximity to underground power lines and street lighting.  The application was referred to Endeavour Energy who have recommended approval subject to conditions to ensure the works are carried out safely near existing infrastructure.  A condition for compliance with Endeavour Energy’s requirements is recommended. | Yes |
| **2.120 – Impact of road noise or vibration on non-road development**  For residential accommodation and centre-based child care facilities on land adjacent to a road corridor with an average annual daily traffic volume of >20,000 vehicles, and where the consent authority considers the development is likely to be affected by road noise or vibration, the consent authority is to consider any guidelines issued by the Planning Secretary, prior to determining the application. | The Transport for NSW Traffic Volume Map (14B) for Noise Assessment for Buildings on Land Adjacent to Busy Roads does not identify The Hermitage Way as exceeding 20,000 vehicle movements per day; therefore, the development is not required to be assessed against the NSW ‘Development Neal Rail Corridors and Busy Roads’ guidelines.  Notwithstanding, the submitted noise impact statement has assessed noise intrusion from road traffic and concludes that the noise impacts to the development caused by traffic can comply with the minimum criteria for:   * residential sleeping and living areas * residential private open spaces * residential communal open spaces * child care sleeping areas * child care internal and external play areas * Gledswood Hills public school internal and external areas   Various attenuation measures will be required to achieve compliance from road traffic noise, and from noise generated by other operational aspects of the development, including:   * upgraded glazing to windows and doors and acoustic seals * acoustic sealant to gaps through slab penetrations * wintergardens for internal facing balconies for Buildings D, E, F and G * operational/management restrictions for child care centre * future tenancy-specific noise impact assessments required for fit-out and use DAs/CDCs, and associated attenuation fit-out requirements, and restricted operating hours, limited music in outdoor seating areas * acoustic treatments to underside of projecting awnings near food and beverage tenancies * partial enclosure and acoustic treatments/linings to loading dock entry roof and driveway/floor surface * restricted hours for truck movements in the loading dock (no use between 10pm and 6am / limit of 2 movements per 15 mins) * duct linings and enclosure of mechanical plant either within buildings or on roofs for further review at construction certificate stage * a project specific construction noise and vibration management plan * ‘order of occupancy’ requirements for individual businesses and residents to close their own windows during peak noise periods * alternative mechanical ventilation   Council’s Environmental Health Specialist supports the recommendations above, and conditions are recommended to ensure compliance. | Yes |
| **2.122 – Traffic-generating development**  For new premises of the ‘relevant size or capacity’ as detailed in Schedule 3, the consent authority is required to:   1. refer the application to Transport for NSW (TfNSW) within 7 days, and 2. take into any consideration: 3. any submission received from TfNSW within 21 days, and   (ii) the accessibility of the site concerned, including:   1. the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and 2. the potential to minimise the need for travel by car and to maximise movement by freight in containers or bulk freight by rail, and   (iii) any potential traffic safety, road congestion or parking implications of the development. | The development meets the thresholds for ‘traffic generating development’ in Schedule 3, in that it proposes:   * ≥200 car parking spaces * ≥300 dwellings * ≥2,000m2 of shop area * ≥200 vehicle movements per hour in the morning and afternoon peaks   TfNSW advised that the predicted traffic generation aligns with the anticipated traffic flows for the Growth Centre and did not expect the traffic generation to have a detrimental impact on the surrounding classified road network.  Notwithstanding, Council’s Traffic Engineer raised concerns about the following matters due to concerns on the *local* road network:   * inconsistent traffic generation rates quoted in the traffic report * intersection service levels * heavy vehicle movements during peak school periods * parking shortfall and extent of shared residential/retail spaces * dock management and shortfall of loading parking spaces * pedestrian crossings and speed humps * reduced speed limits   The applicant revised the traffic report to address several of these matters. The report concludes that the development will have no detrimental impacts on the operation of the surrounding street network.  Deferred Commencement conditions are recommended to ensure the following traffic matters of concern are addressed prior to the consent becoming operational:   * detailed public domain works plans * traffic compliance assessment for the design of all ramps, gradients, heights, parking and loading areas * ongoing dock management plan * local traffic committee approval for upgrades to traffic calming measures such as speed humps, pedestrian crossings, speed limits and parking restrictions | Yes |
| **3.22 – Centre-based child care facility – concurrence of Regulatory Authority required for certain development**  Concurrence from the Regulatory Authority for NSW is required if:   * The indoor unencumbered space requirements in Section 107 of the Education and Care Services National Regulations are not achieved; or * The outdoor unencumbered space requirements in Section 108 of the Regulations are not achieved. | Concurrence is not required, as the proposal achieves compliance with the minimum unencumbered space requirements prescribed by the Regulations.  Sections 107 and 108 of the Regulations require a minimum of 3.25m2 of unencumbered indoor space and 7m2 of unencumbered outdoor space, per child.  This development proposes:  Indoor play space – 279.6m2 / 80 children = 3.495m2 / child (storage, toilets, craft excluded)  Outdoor play space – 602.6m2 / 80 children = 7.53m2 / child (storage, tree planters and raised garden beds excluded) | N/A |
| **3.23 – Centre-based child care facility – matters for consideration by consent authorities**  The consent authority is to consider the NSW Child Care Planning Guideline prior to determining an application. | As assessment of the application against the provisions of the NSW Child Care Planning Guideline is included as an attachment to the assessment report. The proposal achieves full compliance with the Guideline. | Yes |
| **3.26 – Centre-based child care facility – non-discretionary development standards**  The consent authority must not require more onerous standards than the following:   * location – the development may be located at any distance from an existing or proposed early education and care facility; * the indoor or outdoor unencumbered space requirements in the Regulations; * site area and site dimensions – the development may be located on a site of any size and have any length of street frontage or any allotment depth; * colour of building materials or shade structures – the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area. | There are no known child care centres in the immediate vicinity of the site, however this would not be a matter for concern.  The proposal is capable of achieving compliance with the minimum unencumbered space requirements prescribed by the Regulations for indoor and outdoor play areas (subject to recommended conditions for a more detailed landscaping plan, and minor internal alterations). | Yes |
| **3.27 Centre-based child care facility – development control plans**  The following provisions do not apply to the assessment of a centre-based child care facility, regardless of whether they are listed as controls or provisions within a development control plan (DCP):   * Operational management plans or arrangements (including hours of operation); * Demonstrated need or demand for child care services; * Proximity of facility to other early education and care facilities; * Any matters contained in the Guideline. | It is noted that the requirements prescribed by the Transport and Infrastructure SEPP, Regulations and CCPG prevail to the extent of inconsistency with the requirements of Council’s DCPs.  Notwithstanding, the proposal complies with the requirements of these documents, in addition to all relevant SEPP and DCP controls, as outlined in the attachments to the assessment report. | Yes |