

RELEVANT STATE AND ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 of the SEPP contains controls for coastal management and it not applicable to this development.

Chapter 3 of the SEPP contains controls for Hazardous and Offensive Development. This development is not for Hazardous and Offensive development and accordingly this chapter is not applicable to this development.

Chapter 4 of the SEPP contains a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.

The following table considers the risk of the site being contaminated:

Matter for consideration	Yes	No
Does the application involve re-development of the site or a change of land use?	X	
Is the development going to be used for a sensitive land use (e.g., residential, educational, recreational, childcare or hospital)?	X	
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural /horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation		X
Is the site listed on Council's Contaminated land database?		X
Is the site subject to EPA clean-up order or other EPA restrictions?		X
Has the site been the subject of known pollution incidents or illegal dumping?		X
Does the site adjoin any contaminated land/previously contaminated land?		X
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	X	

A Detailed Site Investigation (DSI) has been prepared for the application by Douglas Partners which concludes that the site may be made suitable for the proposed redevelopment.

Given the findings of the report, the application is considered appropriate in regards to this SEPP. Refer to the Preliminary Site Investigation (Appendix 26), DSI (Appendix 29), Surface and Groundwater Impact Assessment (Appendix 22) and Remedial Action Plan (Appendix 27) prepared by Douglas Partners for further detail.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 of the SEPP contains planning rules and controls from the former Vegetation SEPP relating to the clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application. This chapter seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation. The site is currently void of vegetation. The application is accompanied by a BDAR Waiver (Appendix 44).

Chapter 3 – Koala habitat protection contains provisions from the Koala SEPP 2020 and, as an interim measure, applies in the NSW core rural zones of RU1, RU2 and RU3, except within the Greater Sydney and Central Coast areas. Given the sites location and zoning this chapter is not applicable to the development.

Chapter 4 – contains the land-use planning and assessment framework from the former Koala SEPP 2021 for koala habitat within Metropolitan Sydney and the Central Coast and applies to all zones except RU1, RU2 and RU3 in the short term. The site is not identified as containing koala habitat and accordingly this chapter is not applicable to this development.

Chapter 5 – contains the provisions from the former Murray REP, which establishes a consistent and co-ordinated approach to environmental planning and assessment along the River Murray. Given the sites location, this chapter is not applicable to this development.

Chapter 6 – Bushland in urban areas' contains the provisions from the former SEPP 19, which seeks to protect and preserve bushland within public open space zones and reservations. The site is not zoned Public Open Space and is not identified as being within a reservation and accordingly this chapter is not applicable to this development.

Chapter 7 – contains the provisions from the former SEPP 50, which aims to prohibit canal estate development. The development does not propose a canal development and accordingly this chapter is not applicable to this development.

Chapter 8 – contains the provisions from the former Sydney Drinking Water Catchment SEPP to support the water quality objectives for this catchment. The site is not identified as being within the Sydney Drinking Water catchment and accordingly this chapter is not applicable to this development.

Chapter 9– contains the provisions from the former Hawkesbury– Nepean River REP to protect the environment of this river system. The site is not identified as being within the Hawkesbury Nepean River catchment and accordingly this chapter is not applicable to this development.

Chapter 10 – contains the provisions from the former Sydney Harbour Catchment SREP to manage and improve environmental outcomes for Sydney Harbour and its tributaries. The subject site is subject to the broad planning principles contained within the chapter. The Sydney Harbour Catchment Planning Principles must be considered and achieved, where

possible, in the carrying out of development within the catchment. The relevant principles include:

Protect and improve hydrological, ecological and geomorphologic processes;

Consider cumulative impacts of development within the catchment;

Improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and

Protect and rehabilitate riparian corridors and remnant vegetation.

The proposed development does not detract from the above listed principles given the nature of the development and the environmental safeguards proposed, including the detailed drainage concept and erosion and sediment controls that will be in place throughout the construction phase of the development.

Chapter 11 – contains the provisions from the former Georges River REP to manage and promote integrated catchment management policies along the Georges River and its tributaries. The site is not identified as being within the Georges River catchment and accordingly this chapter is not applicable to this development.

Chapter 12 – contains the provisions from the former Willandra Lakes REP, which seeks to protect, conserve and manage this World Heritage property. The site is not identified as being within the Willandra Lakes Precinct and accordingly this chapter is not applicable to this development.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Chapter 2 – contains planning rules and controls from the former Infrastructure SEPP for infrastructure in NSW, such as for hospitals, roads, railways, emergency services, water supply and electricity delivery.

Subdivision 2 Development in or adjacent to road corridors and road reservations

Clause 2.116 Development other than road facilities on public road

The development is not proposed on part of a public road that is to be reclassified as part of this application.

Clause 2.117 Highway service centres in road corridors

The development is not proposed in a road corridor.

Clause 2.118 Development on proposed classified road

The development site is not located within proximity to a classified road and as a result it is not necessary to consider the provisions of this chapter that requires a consent authority to consider the impact of arterial roads on buildings used for residential purposes.

Clause 2.119 Development with frontage to classified road

The development does not have frontage to a classified road.

Clause 2.120 Impact of road noise or vibration on non-road development

The development is accompanied by a Noise and Vibration Impact Assessment (Appendix 21) that considers the existing acoustic environment and demonstrates the land is suitable for residential development.

Clause 2.121 Excavation in or immediately adjacent to corridors

The proposal is not located in or immediately adjacent to a corridor. The land is more than 30m away from the rail corridor.

Clause 2.122 Traffic-generating development

This chapter identifies types of development that require concurrence from Roads and Maritime Services where development is identified as 'traffic generating development'.

Under Schedule 3 of this SEPP (Schedule 3 Traffic-generating development to be referred to Transport for NSW), Residential accommodation containing 300 or more dwellings is classified as Traffic Generating Development. The development proposes a total of 204 units and therefore it is not classified as Traffic Generating Development. The DA will not require referral to Transport for NSW for their concurrence.

Chapter 3 – contains planning provisions from the former Education and Childcare SEPP for child-care centres, schools, TAFEs and Universities. Given the proposed use of the development, this chapter is not applicable.

Chapter 4 – contains provisions from the former Corridor SEPP, including planning controls and reserves land for the protection of 3 corridors (North South Rail Line, South West Rail Link extension and Western Sydney Freight Line). The site is not identified as being within any of these corridors and accordingly this chapter is not applicable to this development.

Chapter 5 – Contains the land-use planning and assessment framework from the former Three Ports SEPP for appropriate development at Port Kembla, Port Botany and Port of Newcastle. The site is not identified as being within any of these port precincts and accordingly this chapter is not applicable to this development.

STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

Chapter 2 – State and regional development’ contains planning provisions from the former State and Regional Development SEPP and identifies state or regionally significant development, state-significant infrastructure, and critical state-significant infrastructure.

Schedule 1 of the SEPP subclause 27 Build-to-rent housing (1-2) states the following:

“(1) Development permitted under the Housing SEPP, Chapter 3, Part 4 if—(a) the proposed development has a capital investment value of—

(i) for development on land in the Greater Sydney Region—more than \$100 million, or

(ii) for development on other land—more than \$50 million, and

(b) the tenanted component of the proposed development has a value of at least 60% of the capital investment value of the proposed development, and

(c) for development on land in Zone B3 Commercial Core—the proposed development does not involve development that is prohibited under an environmental planning instrument applying to the land, other than development for the purposes of multi dwelling housing, residential flat buildings or shop top housing, and

(d) for development on other land—the proposed development does not involve development that is prohibited under an environmental planning instrument applying to the land.

(2) Subclause (1) does not apply to development on land within the area of the City of Sydney.”

The CIV report sets out the details of each component of the proposal and has confirmed the capital investment for the Build-to-Rent (BTR) development is above the \$100 million threshold.

Therefore, the development is a State Significant Development.

Chapter 3 – Aboriginal land’ contains planning provisions from the Aboriginal Land SEPP, which provides for consideration of development delivery plans by local Aboriginal land councils in planning assessment. This chapter is not applicable to this development.

Chapter 4 – Concurrences and consents’ contains provisions from the Concurrence SEPP, which allows the Planning Secretary to elect to be the concurrence authority for certain development that requires concurrence under nominated state environmental planning policies. This chapter is not applicable to this development.

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

Chapter 3 – Part 4 Build-to-Rent housing was introduced to enable certain residential accommodation to be used as Build-to-Rent housing.

The table below provides discussion against the relevant provisions of the SEPP.

SEPP Housing Requirement	
72 Development for the purposes of build-to-rent housing permitted with consent	
(2) This Part applies to development for the purposes of multi dwelling housing, residential flat buildings or shop top housing on land in the following zones—	The development is for shop top housing and is the site is zoned B4 Mixed Use.
(a) a zone in which development for the purposes of residential flat buildings is permissible under another environmental planning instrument,	
(b) Zone B3 Commercial Core,	
(c) Zone B4 Mixed Use,	
(d) Zone B8 Metropolitan Centre.	
(3) Development consent may be granted for development to which this Part applies if—	
(a) the development will result in at least 50 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and	The development will result in at least 50 dwellings occupied or intended to be occupied by individuals under residential tenancy agreements, and all buildings containing dwellings are located on the same lot.
(b) all buildings containing the dwellings are located on the same lot.	
(4) Part 7 does not apply to development permitted under this Part.	Noted.
73 Conditions of build-to-rent housing to apply for at least 15 years	
(1) Development consent must not be granted to the erection or use of a building for development to which this Part applies unless the consent authority is satisfied that, during the relevant period—	
(a) for development on land in Zone B3 Commercial Core—the building will not be subdivided into separate lots, and	N/A.
(b) for development on land in another zone—the tenanted component of the building will not be subdivided into separate lots, and	The tenanted component of the building will not be subdivided into separate lots.
(c) the tenanted component of the building will be—	
(i) owned and controlled by 1 person, and	
(ii) operated by 1 managing agent, who provides on-site management.	The tenanted component of the building will be owned and controlled by 1 person and operated by 1 managing agent who provides on-site management.
(2) Development consent must not be granted to the erection or use of a building for development to which this Part applies on land in Zone B3 Commercial Core unless the consent authority is satisfied a change of use is reasonably possible to change the use of the building to a land use permitted on the land under an environmental planning instrument.	N/A.

- (3) In this section—
relevant period means—
- (a) for development on land in Zone B3 Commercial Core—a period commencing on the day an occupation certificate is issued for all parts of the building or buildings to which the development relates and continuing in perpetuity, or
- (b) otherwise—a period of 15 years commencing on the day an occupation certificate is issued for all parts of a building to which the development relates.

N/A.

Noted.

74 non-discretionary development standards — the Act, s 4.15

(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of build-to-rent housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

(2) The following are non-discretionary development standards in relation to the carrying out of the development to which this Part applies—

(a) the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for a building on the land,

Complies.

(b) for development on land in a zone in which no residential accommodation is permitted under another environmental planning instrument—a floor space ratio that is not more than the maximum permissible floor space ratio for other development on the land under another environmental planning instrument,

N/A.

(c) if paragraph (b) does not apply—a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land under another environmental planning instrument,

Complies. This is addressed in the LEP table later in this report.

(d) for development carried out wholly or partly on land in the Greater Sydney Region—

(i) for land within an accessible area—0.2 parking spaces for each dwelling, or

The Parramatta LEP provides maximum parking rates for the proposal under clause 7.14 Car parking for land in Parramatta City Centre. See the discussion in the LEP table later in this report.

(ii) otherwise—0.5 parking spaces for each dwelling, or
(iii) if a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument,

(e) if paragraph (d) does not apply—at least the number of parking spaces required under the relevant development control plan or local environmental plan for a residential flat building.

N/A.

75 Design requirements

(1) This section applies to development to which this Part applies only if State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development applies to the building resulting from the development.

Noted.

<p>(2) In determining an application for the modification of a development consent or a development application for the carrying out of development to which this section applies, the consent authority must—</p> <p>(a) be flexible in applying the design criteria set out in the Apartment Design Guide, including, in particular, the design criteria set out in Part 4, items 4E, 4G and 4K, and</p> <p>(b) in its consideration of the objectives set out in the Apartment Design Guide, Part 4, consider the following—</p> <p>(i) the amenities proposed to be provided to tenants residing in the building through common spaces and shared facilities and services,</p> <p>(ii) whether the configuration and variety of dwellings in the building will provide adequate options to prospective tenants in relation to the size and layout of the dwellings,</p> <p>(iii) whether tenants residing in the building will be able to relocate to other dwellings in the building that will better accommodate their housing requirements if their requirements change.</p>	<p>The proposal provides apartment sizes, mix and provision of open space appropriate to the BTR market, which is articulated in this EIS and the SIA.</p> <p>Noted.</p>
<p>76 Active uses on ground floor of build-to-rent housing in business zones</p> <p>(1) The objective of this section is to ensure that, in relation to development for the purposes of build-to-rent housing, active uses are provided at the street level in business zones to encourage the presence and movement of people.</p> <p>(2) This section applies to development to which this Part applies if the development is on land in a business zone, including as part of a mixed use development.</p> <p>(3) Development consent must not be granted for development to which this section applies unless the consent authority is satisfied that a building resulting from the development will have an active street frontage.</p> <p>(4) An active street frontage is not required for a part of a building used for 1 or more of the following—</p> <p>(a) entrances and lobbies,</p> <p>(b) access for fire services,</p> <p>(c) vehicular access.</p>	<p>Noted.</p> <p>The site is zoned B4 and therefore, this section applies.</p> <p>The development has a high quality active street frontage, as determined in the Design Excellence Competition.</p> <p>Noted.</p>
<p>77 Conditions requiring land or contributions for affordable housing</p> <p>Nothing in this Part overrides a requirement to dedicate land or pay a monetary contribution under the Act, section 7.32.</p>	<p>Noted.</p>
<p>78 Consideration of Apartment Design Guide for further subdivision of dwellings</p> <p>Development consent must not be granted for development involving the subdivision of a residential flat building for which consent has been granted under</p>	<p>Noted.</p>

this Part unless the consent authority has considered the relevant provisions of the Apartment Design Guide in relation to the part of the building affected by the subdivision.

STATE ENVIRONMENTAL PLANNING POLICY NO.65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

The development proposes a shop top housing development, which provides a residential tower providing build-to-rent apartments. The SEPP (Housing) 2021 applies to the development as previously addressed, and clause 75 (2) states the following;

“the consent authority must—

(a) be flexible in applying the design criteria set out in the Apartment Design Guide, including, in particular, the design criteria set out in Part 4, items 4E, 4G and 4K.”

Clause 75 (2) should be taken into consideration by the consent authority.

Notwithstanding the above guidance in the Housing SEPP, an analysis against the relevant objectives and design guidelines contained in parts 3 and 4 of the Apartment Design Guide is required.

Clause 6A of the amended SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide for the following matters set out in parts 3 and 4 of the guide:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

The SEPP states that if a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which clause 6A applies, those provisions are of no effect.

A full analysis of the proposal against the ADG is provided at Appendix 13 SEPP 65 Assessment.