

Thursday, 20 June 2019

The General Manager
Blacktown City Council
PO Box 63
Blacktown NSW 2148

Attention: Bertha Gunawan – Assistant Coordinator Planning Assessment

Via email bertha.gunawan@blacktown.nsw.gov.au

Dear Bertha,

Re: MOD-18-00505 – 1 Zoe Place, Mount Druitt

This letter has been prepared by Mecone on behalf of Good Luck Plaza (the proponent) and refers to ongoing discussions with Council in relation to MOD-18-00505 at 1 Zoe Place, Mount Druitt.

This letter responds to comments recently raised by Council and should read in conjunction with the following plans, submitted under separate cover:

- Architectural drawings (H1 – H4) prepared by Architex (**Attachment A**).

Background

JRPP-14-2628

On 20 August 2015 the Sydney West Joint Regional Planning Panel (JRPP) granted consent to JRPP-14-2628 for a 10 storey mixed use development with retail/commercial and residential flat buildings. Specifically, the development involved the following:

- Three residential buildings with a maximum height of 32m;
- 15 retail/commercial tenancies, comprising 2,449m² of gross floor area;
- 268 residential units; and
- Four levels of basement parking, providing for 468 vehicles.

The application was approved under the former Blacktown Local Environmental Plan (BLEP) 1988, which provided the following built controls for the site:

- A floor space ratio of 4:1; and
- No maximum building height.

Council's assessment report contends the proposed 32m height was considered acceptable and consistent with the desired future character of the Mt Druitt Sub-Regional Centre and was comparable to previous development approvals in the immediate locality.

MOD-17-00036

On 3 July 2017, Council granted consent to a modification to JRPP-14-2628 in relation to the site. The modifications related to the following:

- Construct the development in three stages;

- Amend Level 1 to allow for garage truck movement;
- Deletion of 2 apartments on Level 2 to allow for the Right of Way Clearance;
- Amendments to the bedroom mix;
- Amendments to basement car parking design to avoid the need to relocate a sewer main and to facilitate staging of the development;
- Minor modification in relation to the construction certificate for the development; and
- Modifications to the external finishes and colours.

Since the original consent was granted, Blacktown Local Environmental Plan (BLEP) 2015 was made and amended the site's controls as follows:

- A floor space ratio of 3:1 (reduced from 4:1 under BLEP 1988); and
- Maximum building height of 32m.

Council comments

Building height

We refer to Council's recent email on 31 May 2019 in relation to the proposed building height of the subject modification, when compared against the heights approved under MOD-17-0036.

Specifically, Council has requested the following:

- *If building height increase is indeed proposed in this modification application, could you please include that in the proposal list, detail the particular changes, provide the necessary justification and revise the necessary architectural plans and indicate the 32m height plane on the elevation and section plans to be revised. Any building height increase will be considered on merit, but a proper justification will be required if a height variation above 32m is proposed and will be necessary to support the report going to the panel.*

Proposed building height

The modification proposes the following maximum heights (RL m) for each building, when measured from the Pitching Point Levels, as was presented on the approved plans:

Pitching Point Levels	JRPP-14-2628	MOD-18-00505	Overall height
Block A	RL91.50	92.20	32.7m (+0.7m)
Block B	RL90.30	92.20	32.7m (+1.9m)
Block C	RL89.25	90.10	30.6m (0.85m)

A height plane diagram is provided in **Figure 1**, indicating the 32m height approved under the original consent and the elements of the building exceeding that height under the subject modification.

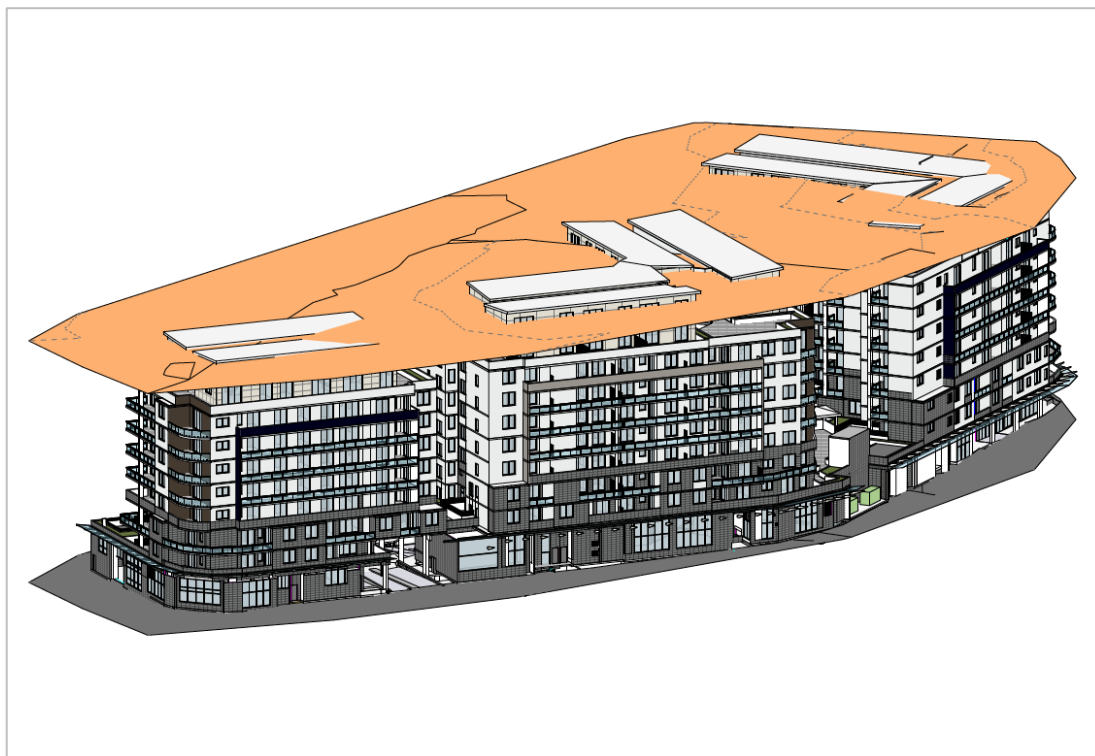


Figure 1 – Height diagram, depicting 32m height plane over subject modification

Building height justification

The proposed modification seeks to increase the building height by 0.7m (RL 91.50 to RL92.20) and results in a maximum height of 32.7m. This reflects a minor departure of 2.18% or 0.7m.

Given that the subject application seeks to modify a consent rather than a DA, the proposed variation may be approved without going through a clause 4.6 of BLEP 2015. This distinction was originally set out in *North Sydney Council v Michael Standley & Associates [1998] NSWSC 163*.

Nonetheless, we have provided detailed justification for the variation as set out below.

Amendments to satisfy construction certificate and engineering requirements

The additional height produced is largely a result of satisfying relevant engineering and construction certificate requirements following approval of the original consent. In particular:

- Level 2 RL on Blocks A and C were raised to accommodate the depth of the transfer slab required by the engineer in order to achieve head height in the commercial tenancies below;
- Level 2 RL for Block B was raised to match that of Block A for ease of construction; and
- Blocks B and C had to provide fire sprinklers to meet Building Code of Australia (BCA) standards in accordance with the conditions of consent. This resulted in an increased floor to floor level of 3.05m from 3m to achieve the minimum ceiling height of 2.7m and provide clearance for the fire sprinklers.

A summary of floor by floor heights compared against the original consent is provided in **Attachment A**.

	Block A		Block B		Block C	
Levels	Existing	Proposed	Existing	Proposed	Existing	Proposed
Ceiling level	91500	92200	90300	92200	89250	90100
Level 10	89000	89500	87800	89500	86750	87400
Level 9	86000	86450	84800	86450	83750	84350
Level 8	83000	83400	81800	83400	80750	81300
Level 7	80000	80350	78800	80350	77750	78250
Level 6	77000	77300	75800	77300	74750	75200
Level 5	74000	74250	72800	74250	71750	72150
Level 4	71000	71200	69800	71200	68750	69100
Level 3	68000	68150	66800	68150	65750	66050
Level 2	65100	65100	63800	65100	62750	63000

The above amendments have produced a slightly increased building height however, it is considered to be negligible within the context of the proposal and future development in Mount Druitt CBD. The proposed increase of 0.7m across the approved 32m, ten storey development will be imperceptible.

Consistency with CBD Planning Proposal

The proposed height of the subject modification is consistent with the Blacktown and Mount Druitt CBD Planning Proposal (CBD PP).

The CBD PP proposes the following amendments to the subject site:

- Remove floor space ratio controls; and
- Increase the maximum building height to 40 metres.

The proposed height of 32.7m is therefore compliant with the maximum height proposed under the CBD PP, being 40m.

Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) expressly requires the consent authority is to take into consideration the provisions of any draft planning instrument that has been subject of public consultation when determining a development application:

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

The CBD PP has been subject to public consultation, was endorsed by Council in December 2018 and is with DP&E for finalisation. Given the imminent and certain timing of the CBD PP, the modification should be considered in line with the proposed amendments to BLEP 2015.

Mecone has had separate discussions with Council's strategic planning team (Chris Shannon), who have indicated a process of separating land within Mount Druitt from the CBD PP to ensure Mount Druitt progresses separately to Blacktown, as Blacktown requires further traffic modelling input.

In light of the above, the CBD PP should have determining weight when considering the subject modification, given that Mount Druitt controls are likely to be adopted separately to Blacktown in the near future.

Compatibility with context

The proposed development is similar in scale to nearby development. The proposed development will not appear as a singular, isolated, non-complying form protruding above the surrounding built form.

Rather, it will appear almost identical to that as originally approved. The minor increase in height does not contribute to an additional storey or apartments compared to that as previously approved. The proposal, from an architectural and built form perspective, will remain largely unchanged.

Consistency with the objectives of the standard

The proposed building height exceedance is consistent with the objectives of the building height standard for the following reasons:

- The exceedance in height is minor and maintains compatibility with the existing and future scale of development in Mount Druitt;
- The additional height will result in no significant adverse visual impact; and
- The additional height will result in no significant loss of privacy or solar access to surrounding development.

Conclusion

We trust the above provides sufficient clarification regarding the height discrepancies in the original consent and the subject modification and provides adequate justification for its minor increase.

Accordingly, we anticipate this will resolve all outstanding comments and allow Council to expedite the application to approval.

Should you wish to discuss this letter in more detail, please do not hesitate to contact me on 8667 8668 or via email at gsedgmen@mecone.com.au.

Yours sincerely,



Georgia Sedgmen