

Assessment against planning controls: section 4.15, summary assessment and variations to standards

1 Environmental Planning and Assessment Act 1979

1.1 Section 4.55(2) considerations for Modification Applications

The proposed development is considered under section 4.55(2) of the Act. Under this provision, the consent authority may modify the consent if:

Consideration	Comment
(a) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).	The original development was approved for a mixed use building for commercial and residential purposes. The proposed modifications maintain the same purposes contained within the approved building footprint. The proposed modifications are substantially creating the same development that was consented to previously.
(b) It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent.	Not applicable.
(c) It has notified the application in accordance with: <ul style="list-style-type: none"> (i) the regulations, if the regulations so require, or (ii) a Development Control Plan, if the consent authority is a council that has made a Development Control Plan that requires the notification or advertising of applications for modification of a development consent 	The Modification Application was notified to adjoining and surrounding properties for 14 days.
(d) It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the Development Control Plan, as the case may be.	No submissions were received.

1.2 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
<p>(a) The provisions of:</p> <p>(i) Any environmental planning instrument (EPI)</p> <p>(ii) Any proposed instrument that is or has been the subject of public consultation under this Act</p> <p>(iii) Any development control plan (DCP)</p> <p>(iv) The regulations</p>	<p>The proposal has been considered against the relevant EPIs such as BLEP 2015.</p> <p>The proposed development is substantially the same development as already approved on the site and is a permissible land use within the B4 Mixed Use zone and satisfies the zone objectives under BLEP 2015.</p> <p>It is noted that BLEP 2015 was not formally considered at the time of the original DA as BLEP 1988 was the relevant planning instrument. That previous LEP did not specify any height or FSR controls. Under the current BLEP 2015, a 32 m maximum height and maximum FSR of 3.1:1 apply to the site.</p> <p>The approved height was 32 m (10 storeys high) and the approved FSR was 4:1. The current proposal is seeking for additional height and FSR to a total of 33 m and 4.12:1 respectively. The proposed building scale is nevertheless is still very similar to the approved building.</p>	Acceptable. Refer to the corresponding sections in the report for further discussion, as well as building height and FSR variation discussed in the Assessment report.
(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	<p>It is considered that the likely impacts of the development, including traffic, noise, parking and access, design, bulk and scale, overshadowing, privacy, waste management and stormwater management have been satisfactorily addressed.</p> <p>It is considered that the modified development will have minimal impacts on surrounding properties and no greater impacts than the already approved development.</p> <p>In view of the above it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.</p>	Yes
(c) The suitability of the site for the development	The design responds positively to the different types of land uses adjoining the site. The site is located within close proximity to Mount Druitt Railway Station, and is one of the key sites to be included in the Blacktown and Mount Druitt CBD Planning Proposal currently under Council's considerations. The site is also located close to services and facilities.	Yes
(d) Any submissions made in accordance with this Act, or the regulations	No submissions were received.	N/A
(e) The public interest	The proposal contributes to employment and providing commercial and retail services for the Mount Druitt area. No submission was received during the notification period and the proposed development is therefore considered in the public interest.	Yes

2 State Environmental Planning Policy (State and Regional Development) 2011

Summary comment	Complies
The Sydney Central City Planning Panel (SCCPP) is the consent authority for all Section 4.55(2) modifications of Planning Panel determined matters. Council is responsible for the assessment of the DA and determination of the application is to be made by the Panel.	Yes

3 Central City District Plan 2018

Summary comment	Complies
While the Act does not require consideration of District Plans in the assessment of Development Applications, the DA is consistent with the following overarching planning priorities of the Central City District Plan: Liveability <ul style="list-style-type: none">Improving access to jobs and servicesCreating great placesContributing to the provision of services to meet communities' changing needs.	Yes

4 Blacktown Local Environmental Plan 2015

Summary comment		
Blacktown Local Environmental Plan 2015 (BLEP 2015) applies to the site. We have assessed the Modified Application against the relevant provisions and the table below identifies where compliance is not fully achieved . The application is compliant with all other matters under the BLEP 2015.		
Development Standard	Proposal	Compliance
4.3 Maximum height of buildings 32 m	The proposed height of the building is 33 m but it maintains a 10 storey development (as per the original approval).	No, but acceptable for the reasons as discussed in Section 7.1 of the Assessment report.
4.4 Maximum Floor Space Ratio (FSR) 3:1	4.12:1 (approved at 4:1)	No, but acceptable for the reasons as discussed in Section 7.1 of the Assessment report.

5 Blacktown Development Control Plan 2015

Summary comment
Blacktown Development Control Plan 2015 (BDCP 2015) applies to the site. It should be noted that the relevant requirements under BDCP 2015 revert back to BDCP 2006 for commercial uses within the Mount Druitt Town Centre, where the site is located. The proposal fully complies with the DCP requirements for parking, solar access, waste management, drainage requirements and the development objectives in the Mount Druitt Town Centre.