

Assessment report to Sydney Central City Planning Panel

Panel reference: 2018SWC085

Development Application

DA number	MOD-17-00272	Date of lodgement	12 July 2017
Applicant	Merhis Management Group Pty Ltd		
Owner	Nera Development Pty Ltd		
Proposed development	Modify the configuration of an approved 20 storey mixed use development by reducing the commercial floor space and converting all 12 x 3 bedroom units into 1 or 2 bedroom units, including internal and external reconfigurations		
Street address	Lots 89 & 90 DP 11157 at 29-31 Second Avenue, Blacktown		
Notification period	18 June to 2 July 2018	Number of submissions	1

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> Major modification application lodged under section 4.55(2) for a DA previously approved by the Panel
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 State Environmental Planning Policy (State and Regional Development) 2011 Sydney Environmental Planning Policy (SEPP) No. 65 - Design Quality of Residential Apartment Development Central City District Plan 2018 Blacktown Local Environmental Plan 2015 Blacktown Development Control Plan 2015 Section 7.11 Contributions Plan No. 19
Report prepared by	Bertha Gunawan
Report date	11 October 2018
Recommendation	Approval, subject to the conditions listed in attachment 8.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal
- 5 Development Application plans
- 6 Assessment against planning controls
- 7 Issues raised by the public
- 8 Draft conditions of consent

Checklist

Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 matters been summarised in the Executive summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the assessment report? Not applicable

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)? No

Conditions

Have draft conditions been provided to the Applicant for comment? Yes

Contents

1	Executive summary.....	4
2	Location.....	4
3	Site description	4
4	Background	5
5	The proposal.....	5
6	Assessment against planning controls	5
7	Key issues	6
8	Issues raised by the public.....	7
9	External referrals	8
10	Internal referrals.....	8
11	Conclusion.....	8
12	Recommendation.....	8

1 Executive summary

- 1.1 The original DA for this site was approved by the Joint Regional Planning Panel in 2010 under the provisions of SEPP 65 and the Residential Flat Design Code. Since that time, SEPP 65 was amended and the new Apartment Design Guide is now applicable. Amendment No. 3 to the SEPP requires any modification application to be assessed against the Apartment Design Guide which commenced on 19 June 2015. Our assessment applies to only those elements proposed to be altered by the modifications.
- 1.2 The key issues that need to be considered by the Panel in respect of this application are:
 - Key planning controls for this site have changed since the original approval in 2010
 - Non-compliant balcony size
 - Non-compliant bedroom mix
 - Insufficient details provided on accessible units.
- 1.3 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.4 The application is therefore considered satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 8.

2 Location

- 2.1 The site is on the north-eastern side of Second Avenue, between Third Avenue and Prince Street, within the Northern Precinct of the Blacktown CBD.
- 2.2 The Northern Precinct is undergoing a major urban transformation as it slowly redevelops. Many recent adjacent developments, and current Development Applications, are for high rise shop top housing developments (commercial uses on the lower floors with apartments above).
- 2.3 Blacktown Railway Station and Westpoint Shopping Centre are within walking distance (approximately 450 m to the south) and existing local services surround the subject site. These services include a medical centre, Blacktown Community Services Centre, PCYC Blacktown, a church, employment centres, Centrelink, a day care centre for children, Officeworks and an Asian supermarket.
- 2.4 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The property address is 29-31 Second Avenue, Blacktown and is legally described as Lots 89 and 90 DP 11157.
- 3.2 The site is rectangular in shape with a street frontage of 36.575 m and depth of 54.865 m, with a total site area of 1985.4 m².
- 3.3 The site has north-south orientation with a natural fall of 2% as measured 1.5 m from the street level (south-east boundary) to the rear (north-west boundary) over a distance of 67 m.
- 3.4 Adjoining the subject site to the east and separated by a laneway is a 2 storey Officeworks, and to the west is the single storey Serbian Orthodox Church of St Nicholas.

An existing 2 storey commercial building containing Auto Masters, Autobarn and ATS Tiles and Bathroom adjoins the rear boundary of the site.

3.5 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 The subject site is zoned B4 Mixed Use. The proposal is defined as a 'shop top housing' development which is permissible within the zone.
- 4.2 The zoning plan for the site and surrounds is at attachment 3.
- 4.3 On 9 September 2010, development consent was issued on the subject site under JRPP-09-1574, for the construction of a 20-storey mixed use commercial/residential building comprising:
- 690 m² commercial floor space
 - 168 residential units made up of 42 x 1 bedroom, 114 x 2 bedroom and 12 x 3 bedroom units
 - 6 levels of basement car parking containing 271 spaces made up of 23 commercial, 180 residential and 68 visitor spaces, plus 1 courier space/loading bay.
- 4.4 A Construction Certificate was issued by Certified Building Specialists on 26 August 2015, and evidence of physical work (i.e. piling) was confirmed to be undertaken appropriately by HKMA Engineers as stated in its letter dated 31 August 2015. Given that works had commenced by 9 September 2015 (5 years from the date consent was issued), the consent is now active in perpetuity.

5 The proposal

- 5.1 The modification application was lodged by Merhis Management Group Pty Ltd on 12 July 2017.
- 5.2 The Applicant proposes a section 4.55(2) modification to:
- convert all 3 bedroom units into 1 or 2 bedroom units, creating an additional 16 units
 - reduce the approved commercial floor space
 - internally reconfigure most levels
 - change external building details.
- 5.3 The modifications do not alter the approved building height.
- 5.4 Other details about the proposal are at attachment 4 and a copy of the development plans is at attachment 5.

6 Assessment against planning controls

- 6.1 An assessment of the modification application against relevant planning controls is provided at attachment 6, including:
- Environmental Planning and Assessment Act 1979
 - Sydney Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
 - Central City District Plan 2018
 - Blacktown Local Environmental Plan 2015
 - Blacktown Development Control Plan 2015.

7 Key issues

7.1 Key planning controls for this site have changed since the original approval in 2010

7.1.1 The original DA that was approved by the Joint Regional Planning Panel in 2010 was subject to different environmental planning instruments and development control plan. A summary of the key changes between 2010 and now is shown in the table below:

Category	2010	2018
Zoning	3(a) General Business under Blacktown LEP 1988 Permissible with consent	B4 Mixed Use under Blacktown LEP 2015 Permissible with consent
Height of building control	None in BLEP 1988 However, a maximum height of 20 storeys (therefore approx. 70 m) was specified in Blacktown DCP 2006	56 m
Floor space ratio control	None in BLEP 1988	6.5:1
Residential flat building standards	State Environmental Planning Policy (SEPP) No. 65 and the Residential Flat Design Code (RFDC)	State Environmental Planning Policy (SEPP) No. 65 and the Apartment Design Guide (ADG)

7.1.2 The modification application does not change the 20 storey height of the approved building. Despite the new LEP's 56 m height limit and a maximum FSR of 6.5:1, the Applicant is entitled to rely on the approval, and the approved height, and submit a modification application.

7.1.3 Whilst the original approval exceeds the current height and FSR controls, the proposed building height has not changed and the building scale is similar. The modification does not propose any extra floor space, rather a reduction in commercial floor space.

7.1.4 As the current proposal is lodged under section 4.55 of the Environmental Planning and Assessment Act 1979 and the approved height is not being exceeded, a Clause 4.6 justification for exceedance of the current height and FSR controls is not required.

7.1.5 Given that the proposed development sits on the approved building footprint, maintains a similar bulk and scale to the approved development and retains the commercial component, we support the modification subject to conditions.

7.2 Non-compliant balcony size

7.2.1 The development does not comply with the private open space requirements of the Apartment Design Guide.

7.2.2 Given the roundish shape of the building, the minimum 2 m depth as required by the ADG is complied with, but 132 units do not provide the required minimum sizes (8 m² for 1 bedroom unit and 10 m² for 2 bedroom unit) and 54 of these units (29%) are at least 2 m² below the minimum required sizes.

- 7.2.3 The approved DA was assessed under the previous Blacktown Development Control Plan 2006 and a minimum of 7.5 m² was required. As a result, 27 units (16%) did not comply with that requirement. However, the approved DA provided long 1 m depth balconies that, whilst countable under the ADG as part of the balcony area, were not effectively usable.
- 7.2.4 The proposed modified balcony areas demonstrate better usability for future occupants and therefore promote a better amenity outcome in this case, and are considered satisfactory for this reason.

7.3 Non-compliant bedroom mix

- 7.3.1 The proposal deletes all 3 bedroom units based on the submitted confidential market analysis that the expected price of these units would be competitive to a 3 bedroom house in the surrounding Blacktown area.
- 7.3.2 Whilst a 3 bedroom unit provides for a wider variety of apartment mix, given the development's location in the CBD area and proximity to the Blacktown Railway Station, it is likely to attract smaller families and single professionals that may not demand a 3 bedroom unit.
- 7.3.3 New 3 bedroom dwellings and attached dwellings are being offered in the nearby Fairwater Estate on Richmond Road not far from this site and also within walking distance to the station.
- 7.3.4 Together with the consideration of the market analysis report, the proposed deletion of the 3 bedroom units is acceptable.

7.4 Insufficient details provided on adaptable units

- 7.4.1 The approved application under JRPP-09-1574 made provision for 11 adaptable units and these were fully documented on the approved plans. The current modification application has nominated different and additional units for adaptable housing.
- 7.4.2 The current plans only indicate the provision of 8 residential disabled parking spaces, which is inadequate given that 19 x 2 bedroom units are nominated to be accessible units (requiring a minimum of 19 car spaces to be nominated).
- 7.4.3 The Applicant must demonstrate full compliance with the adaptable unit provisions prior to the issue of any Construction Certificate. This is to include the submission of a Building and Access consultant report that certifies compliance of the required accessible and universal design units with the Building Code of Australia and Disability and Discrimination Act. This will be conditioned as part of the consent.

8 Issues raised by the public

- 8.1 The proposed development was notified to adjoining and nearby property owners and occupiers in the locality between 18 June and 2 July 2018.
- 8.2 We received 1 submission.
- 8.3 The issues raised by the residents are that there is an unbalanced bedroom mix created by the deletion of all 3 bedroom units and they are opposed to the reduced commercial floor space. A summary of each issue and our response is at attachment 7.
- 8.4 The objection is not considered to warrant refusal of the modification application.

9 External referrals

- 9.1 The scope of the development to be modified did not necessitate any referral to an external authority.

10 Internal referrals

- 10.1 The modification application was referred to the following internal sections of Council for comment:


Section	Comments
City Architect	Acceptable subject to the accessibility of units condition as outlined in Section 7.4 above.

11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is considered to be substantially the same development as approved previously. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest.

12 Recommendation

- 1 Approve the modification application subject to the conditions listed in attachment 8.
- 2 Council officers notify the Applicant and submitter of the Panel's decision.

per 
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