

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

1 Environmental Planning and Assessment Act 1979

a. Section 4.55(2) considerations for modification applications

Consideration	Comment
1.1 The proposed development is considered under section 4.55(2) of the Act. Under this provision, the consent authority may modify the consent if:	
(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 are ancillary to those purposes, and the proposed amendments are contained within the approved building footprint, also maintaining the same height. The proposed modifications are substantially creating the same development that was consented to before.
(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 proposed modifications were notified to the adjoining and surrounding properties for 14 days and 1 submission was received.
(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.	The submission has been considered - refer to attachment 7 for details of the submission and our response.

Heads of Consideration	Comment	Complies
(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	<p>The site has an area and configuration that is suited to this form of development. The design responds positively to the different types of land uses adjoining the site. The site is located within close proximity to Blacktown Railway Station, Blacktown bus interchange and is located in the Blacktown CBD. The site is also located close to services, facilities and a major arterial road network, making it suitable for higher residential densities.</p>	Yes
(d) Any submissions made in accordance with this Act, or the regulations	<p>One submission was received from notification of the proposed modification. The submission identifies that the absence of 3 bedroom units does not appropriately respond to community needs, and that the proposed additional 1 and 2 bedroom units, as well as the reduction of commercial space, is driven by profit. The applicant submitted a market analysis report with the application and it has been appropriately demonstrated that the market demand in the CBD area is for 1 and 2 bedroom units rather than for 3 bedroom units. The submission is assessed at attachment 7. The submission does not warrant refusal of the application.</p>	Yes
(e) The public interest	<p>It is considered that no adverse matters relating to the public interest arise from the proposal. The proposal provides high quality housing stock and provides for a range of housing diversity within the Blacktown City area.</p>	Yes

2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Summary comment	Complies
<p>A BASIX Certificate has been lodged to accompany the modification application. The BASIX Certificate indicates that the development has been designed to achieve the required water, thermal comfort and energy scores.</p> <p>The relevant condition will be amended to reflect the updated BASIX Certificate.</p>	Yes

3 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

Summary comment

SEPP 65 applies to the assessment of Development Applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.

Clause 30 of SEPP 65 requires a consent authority to take into consideration:

- advice (if any) obtained from the design review panel
- design quality of the residential flat development when evaluated in accordance with the design quality principles
- the Apartment Design Guide (ADG).

We do not have a design review panel.

The tables below provide comments on our assessment of the 9 design quality principles and details where the numerical guidelines of the Apartment Design Guide are not fully complied with.

Principle	Control	Town Planning comment
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3.1 Design quality principles

The development satisfies the 9 design quality principles.

<p>1. Context and neighbourhood character</p>	<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p>	<p>The proposed external design changes, which are mainly to the configuration of external walls and material finishes, maintain a modern site context in the Blacktown CBD. The current modifications retain a similar bulk and scale to the approved development.</p> <p>The development meets the objectives of the B4 Mixed Use zone and contributes to the social and economic diversity of the Blacktown local area through the provision of retail, business and residential apartments. The building responds to the streetscape, providing an active street frontage and building setbacks consistent with those envisaged for the CBD.</p>
<p>2. Built form and scale</p>	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p>	<p>The design responds to the surrounding context, maintaining the existing building envelope as approved in 2010.</p> <p>The mixed use development responds to the site's location within the CBD. The 2 storey podium is consistent with Council's controls and creates a suitable streetscape.</p>

Principle	Control	Town Planning comment
	<p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	
<p>3. Density</p>	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposed modified development is similar in scale to the approved development. The proposed additional 16 units are acceptable given the site's location in the CBD area. In that respect, the additional units are appropriately sized in compliance with the ADG requirements.</p> <p>In addition, the site is located 450 m from Blacktown Train Station and is located within the Blacktown CBD. It is therefore considered a suitable density that can be sustained within existing infrastructure.</p>
<p>4. Sustainability</p>	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The proposed changes to the unit mix still ensure that the design of the development exceeds the minimum design criteria for solar access and natural cross ventilation.</p> <p>The proposal provides for a mix of dwellings, contributing to the housing diversity within the locality.</p> <p>The proposal is supported by a BASIX Certificate. The commitments are incorporated into the design of the building. The proposal demonstrates satisfactory levels of sustainability, waste management and efficient use of energy and water resources.</p>
<p>5. Landscape</p>	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p>	<p>A landscape plan was not submitted with the current modification application. The previously approved plan incorporated a variety of planting that contributes to the amenity of the development. Whilst deep soil zones have not been provided throughout the development given the CBD context of the site, planters have been provided to ensure sufficient planting can be achieved.</p> <p>The landscape design provides for suitable screening to adjoining properties, creates usable spaces for future residents and improves the overall quality of the development.</p>

Principle	Control	Town Planning comment
	<p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	
<p>6. Amenity</p>	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The design of the proposal is considered to provide a high level of amenity through a carefully considered spatial arrangement and layout.</p> <p>The revised proposal still achieves a suitable level of internal amenity through providing appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, outlook, efficient layouts and service areas.</p>
<p>7. Safety</p>	<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The proposal is considered to be satisfactory in terms of future residential occupants overlooking communal spaces while maintaining internal privacy. Public and private spaces are clearly defined and suitable safety measures are integrated into the development.</p> <p>The proposal still ensures suitable casual surveillance of the public domain.</p>
<p>8. Housing diversity and social interaction</p>	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposal consists of a mix of dwellings which are responsive to anticipated market and demographic demands.</p> <p>The revised proposal still provides adequate housing choice which is in close proximity to public transport and is located within the Blacktown CBD.</p>

Principle	Control	Town Planning comment
9. Aesthetics	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The proposed development is considered to be appropriate in terms of the composition of building elements, textures, materials, finishes and colours and reflect the use, internal design and structure of the resultant building.</p> <p>The distinct and contemporary design assists in setting a high quality standard for the transitioning character of this locality and creates a desirable streetscape.</p>

3.2 Compliance with Apartment Design Guide (ADG)

ADG requirement	Proposal	Compliance
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We have assessed the modification application against the relevant provisions of the ADG and the table below only identifies where compliance is **not fully achieved**.

It is compliant with all other matters under the ADG.

Designing the building			
4C Ceiling heights	<p>2.7 m for habitable rooms 2.4 m for non-habitable rooms</p> <p>Service bulkheads are not to intrude into habitable spaces.</p>	<p>2.7 m 2.7 m</p> <p>Is not shown on the plans but will be conditioned to comply with the head clearance as required by the relevant Australian Standards and Building Code of Australia</p>	<p>Yes Yes Yes – subject to conditions</p>
4E Private open space and balconies	<p>Studio > 4 m² 1 bed > 8 m² and 2 m depth 2 bed > 10 m² and 2 m depth 3 bed > 12 m² and 2.4 m depth Ground level/podium apartments > 15 m² and 3 m depth</p>	<p>N/A Minimum 5.8 m² to 10.8 m² with 2 m depth Minimum 6.3 m² to 25 m² with 2 m depth N/A N/A</p> <p>The development does not fully comply with the minimum sizes for private open space. 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 units (29%) are at least 2 m² below the minimum required sizes.</p>	<p>No, but acceptable in the circumstances</p>

ADG requirement		Proposal	Compliance
		<p>The approved DA was assessed under the previously applicable Blacktown DCP 2006, where a minimum of 7.5 m² was required. As the result, 16% or 27 units do not comply with that requirement.</p> <p>However, the approved DA provided long 1 m depth balconies that, whilst countable by the ADG as part of balcony area, were not effectively usable. 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.</p>	
Configuration			
<p>4K Apartment mix</p>	<p>Provide a variety of apartment types. Flexible apartment mix.</p>	<p>66 x 1 bedroom units (35.9%) 118 x 2 bedroom units (64.1%) 19 units are nominated for adaptable units (10%), and 20% of the total units are required to incorporate the Liveable Housing Guideline's silver level universal design features.</p> <p>The proposal deletes all 3 bedroom units based on the submitted market analysis that the expected pricing would be competitive to a 3 bedroom house in low rise living around the Blacktown CBD.</p> <p>Whilst 3 bedroom units provide a wider variety of apartment mix, it is noted that the site's location in the CBD area and proximity to Blacktown's Railway Station is likely to attract smaller families and single professionals that may not require a 3 bedroom unit. Together with the consideration of the market analysis report, the proposed deletion of the 3 bedroom units in this building is acceptable.</p>	<p>No, but acceptable</p>

4 Blacktown Local Environmental Plan 2015

Summary comment

Blacktown Local Environmental Plan 2015 (BLEP 2015) applies to the site. The table below provides a summary assessment of the development standards established within BLEP 2015 and the proposal's compliance with these standards. The approved development predates the new development standards contained within BLEP 2015.

Development Standard	Proposal	Compliance
Zoning B4 Mixed Use	Mixed use. Ground floor commercial and residents' gymnasium, first floor commercial and 18 storeys of residential units above.	Yes
Maximum height of buildings 56 m	70.3 m or 20 storeys (approved under BLEP 1988 which did not specify a height limit). The proposal maintains a 20 storey development and the approved building height of 70.3 m.	No, but acceptable as the applicant is legally entitled to act upon the approval granted in 2010, and also to modify it. We cannot force the applicant to retrospectively reduce the height to comply with today's standards.
Maximum Floor Space Ratio (FSR) 6.5:1	7:1 (after reduction of commercial floor space area). The DA was approved in 2010 and no floor space control applied at that time under BLEP 1988. The proposed reduction in commercial floor area brings a closer compliance to the maximum FSR control under the current BLEP 2015.	No, but DA was approved under a planning regime that did not apply a FSR control. The applicant is legally entitled to act upon the approval granted in 2010 and cannot be forced to retrospectively reduce the floorspace to comply with today's standards.
7.7 Design excellence Development consent must not be granted to development involving the erection of a new building or external alterations to an existing building on any land unless the consent authority is satisfied that the development exhibits design excellence.	The building is architecturally designed, is generally consistent with the Apartment Design Guide (ADG) and provides a positive contribution to design in the CBD.	Yes

Development Standard	Proposal	Compliance
<p>7.12 Development in Zone B4</p> <p>Development consent must not be granted to the erection of a building, or to the change of use of a building on land in zone B4 Mixed Use, unless the consent authority is satisfied that the ground floor and first floor of the building will be used for a purpose other than residential accommodation.</p>	<p>Commercial spaces are proposed on the ground and first floors of the development.</p>	<p>Yes</p>

5 Central City District Plan 2018

Summary comment	Complies
<p>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 2018:</p> <p>Liveability</p> <ul style="list-style-type: none"> • Improving housing affordability • Improving access to jobs and services • Creating great places • Contributing to the provision of services to meet communities' changing needs. 	<p>Yes</p>

6 Blacktown City Council Development Control Plan 2015

BDCP 2015 applies to the site, however the Apartment Design Guide overrides its relevant provisions.