

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

1 Environmental Planning and Assessment Act 1979

1.1 The proposal is assessed 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 residential flat buildings. The proposed modifications will result in substantially the same development for which consent was originally granted.
(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	N/A
(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 we received no submissions.
(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.	N/A

1.2 The proposal is also assessed under section 4.15:

Consideration	Comment	Complies
(a) The provisions of:	The proposal has been considered against the relevant EPIs, such as SEPP (Sydney Region Growth Centres) 2006, Blacktown Growth Centre Precincts DCP 2018,	Acceptable. Refer to the corresponding

Consideration	Comment	Complies
<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>SEPP BASIX 2004 and the 9 'design quality principles' of SEPP 65.</p> <p>The proposed development is substantially the same development as already approved on the site, is a permissible land use in the R3 Medium Density Residential zone and satisfies the zone objectives.</p> <p>Under SEPP (SRGC) 2006, the maximum height limit for the site is 12 m. The proposal will increase floor to ceiling height of the top units on each floor by 400 mm above the 12 m height plane. This includes an increase in height of the basement ceiling to allow sufficient headroom clearance for waste collection trucks by 900 mm. Therefore the proposed overall building height is 13.6 m or a 13% non-compliance. This represents a 1.6 m encroachment over the 12 m height plane, but no extra units are proposed as a result and the proposed variation is mainly contained in roof parapet, lift overruns and architectural features.</p> <p>Under SEPP (SRGC) 2006, the maximum FSR limit for the site is 1.75:1. The proposed modifications will not significantly alter the approved FSR and it remains compliant at 1.74:1.</p> <p>SEPP 65 applies to the development. Under the transitional provisions of the SEPP, the following is relevant:</p> <p>“31 Transitional provisions for State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development (Amendment No. 3)</p> <p>(3) If a development application or an application for the modification of a development consent has been made after the notification on the NSW legislation website of the making of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (Amendment No 3) and the application has not been finally determined before the commencement of that amendment, the application must be determined under this Policy as amended by that amendment.”</p> <p>Under subclause (3) the amendment to the SEPP was made on 19 June 2015. The modification application was lodged on 8 April 2019. In this instance, the relevant provisions under the current Apartment Design Guide (ADG) apply only to the elements being altered under this modification application.</p>	<p>section in the report for further discussion on the proposed height.</p>

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 and were dealt with in the original approval by the Panel.</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 proposed development scale is appropriate for the site. The proposal will improve the amenity of future building occupants and also presents an improved outcome to the building articulation and design, compatible with surrounding land uses. The site is in close proximity to Tallawong Station and the local town centre, services and facilities. It is also connected to Windsor Road which is a major arterial road, making it suitable for higher residential densities.	Yes
(d) Any submissions made in accordance with this Act, or the regulations	No submissions were received	N/A
(e) The public interest	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.	Yes

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

Summary comment	Complies
Clause 21 of the SEPP requires the Sydney Central City Planning Panel to be the consent authority for modifications made under section 4.55(2) of the Act on a previously determined application by the Joint Regional Planning Panel.	Yes

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

Summary comment	Complies
<p>The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP, including BASIX certification.</p> <p>A BASIX Certificate was submitted with the modification application in line with the provisions of this SEPP. The BASIX Certificate demonstrates that the proposal complies</p>	Yes

with the relevant sustainability targets and will implement those measures required by the certificate. This will be conditioned in any consent granted.

4 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.

4.1 Design quality principles

Principle	Control	Comment
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4.1.1 Design quality principles

The development satisfies the 9 design quality principles.

1. Context and neighbourhood character	<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 provide for improved building articulation and overall design. The current modifications retain a very similar bulk and scale to the approved development.</p> <p>The development meets the objectives of the R3 Medium Density Residential zone and contributes to the social and economic diversity of the Blacktown local area through the provision of residential apartments. The buildings respond to the streetscape and provide an active street frontage.</p>
2. Built form and scale	<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>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>The design responds to the surrounding context, maintaining the existing building envelopes as approved.</p>

Principle	Control	Comment
3. Density	<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 development is very similar in scale to the approved development. The approved number of residential apartments and parking provision are unchanged.</p>
4. Sustainability	<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 external design changes still ensure that 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>
5. Landscape	<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>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>The approved landscaping is generally maintained in this modification application.</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>
6. Amenity	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to</p>	<p>The proposed amended design provides a high level of amenity through a carefully considered spatial arrangement and layout.</p> <p>The revised proposal achieves a suitable level of internal amenity through providing appropriate room dimensions</p>

Principle	Control	Comment
	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.	and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, outlook, efficient layouts and service areas.
7. Safety	<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 satisfactory in this regard. Public and private spaces are clearly defined and suitable safety measures are integrated into the development.</p> <p>The proposal ensures suitable casual surveillance of the public domain.</p>
8. Housing diversity and social interaction	<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>	The approved apartment mix remains the same.
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 appropriate in terms of the composition of building elements, textures, materials, finishes and colours.</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>

4.2 Compliance with Apartment Design Guide (ADG)

ADG requirement	Proposal	Compliance
We have assessed the modification application against the relevant provisions of the ADG and the proposal fully complies .		

5 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Summary comment

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

It is compliant with all other matters under State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

Controls within Appendix 6 – Area 20 Precinct Plan of the SEPP

Cl. 4.3 Height of buildings Maximum 12 m	Building height of 13.6 m is proposed.	No. Refer to discussion in the summary report.
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6 Blacktown City Council Growth Centre Precincts Development Control Plan 2010 (Growth Centre Precincts DCP)

Summary comment

The Growth Centre Precincts DCP provides the planning, design and environmental objectives and controls for the assessment of Development Applications in Blacktown City's Growth Centre Precincts and applies to the subject site. The part of the site proposed for redevelopment for residential flat buildings is within the Riverstone East Precinct.

We have assessed the DA against the relevant provisions and the table below only identifies where compliance is not fully achieved.

It is compliant with all other matters under the DCP.

1.1 Part 4.0 – Development in the Residential Zones (from main body of DCP)

1.1.1 Specific residential flat building controls

DCP requirement		Proposal	Compliance
Front setback	Minimum 6 metres Balconies and other articulation may encroach into setback to a maximum of 4.5 m from the boundary for the first 3 storeys, and for a maximum of 50% of the façade length.	The property boundaries of the approved lot containing the Stages 2 to 5 RFBs front 4 local streets, with recently constructed RFBs adjacent to a local road to the north (at 828 Windsor Road), and also the adjacent Stages 1 and 6 RFBs to the east. The required street setbacks of the Stages 2 to 5 buildings are a minimum 6 m from all boundaries, with balconies to have minimum 4.5 m from the streets. These setback requirements were reduced and approved to 5 m and 3.5 m respectively, due to road widening requirements of Council under DA-14-1591. Setback variations to the Stages 2 to 5 buildings are proposed as	No but acceptable due to offsets as discussed in Section 7 of the summary report.

		<p>point encroachments and oblique angles, as follows:</p> <p>Northern elevation –</p> <p>Minimum building setback to the local road is proposed at worst at 4.2 m.</p> <p>Minimum balcony setback to the local road is proposed at worst at 2.2 m.</p> <p>Southern elevation –</p> <p>Minimum building setback to the local road is proposed at worst at 4.4 m (6% of façade length).</p> <p>Minimum balcony setback to the local road is proposed at worst at 2.7 m (1.7% of façade length).</p>	
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7 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:</p> <p>Liveability</p> <ul style="list-style-type: none"> Improving housing choice 	Yes

8 Blacktown Local Strategic Planning Statement (LSPS) 2020

Summary comment	Complies
<p>The LSPS applies to the site, with 18 Priorities and 61 Actions contained within the Statement to support the vision for our City and to guide development, balancing the need for housing, jobs, and services with the natural environment. The LSPS builds on the framework established under the Blacktown Community Strategic Plan <i>Our Blacktown 2036</i> and also gives effect to the NSW Government's Greater Sydney Regional Plan and Central City District Plan.</p> <p>The proposed modified development is consistent with the following priorities:</p> <p>LPP5 - Providing housing supply, choice and affordability with access to jobs, services and public transport.</p>	Yes