

# Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-104

## Development application

|                             |                                                                                                                                                                                                                                                             |                              |             |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-------------|
| <b>DA number</b>            | SPP-20-00003                                                                                                                                                                                                                                                | <b>Date of lodgement</b>     | 12 May 2020 |
| <b>Applicant</b>            | Mecone Pty Ltd                                                                                                                                                                                                                                              |                              |             |
| <b>Owner</b>                | Ausunion First Group Pty Ltd                                                                                                                                                                                                                                |                              |             |
| <b>Proposed development</b> | Construction of 2 additional floor levels (levels 11 - 12) to a mixed use development approved under JRPP-14-02628 (and as subsequently modified), including amendments to approved levels 9 and 10 and increasing the number of apartments from 266 to 362 |                              |             |
| <b>Street address</b>       | 1 Zoe Place, Mount Druitt                                                                                                                                                                                                                                   |                              |             |
| <b>Notification period</b>  | 24 June to 8 July 2020                                                                                                                                                                                                                                      | <b>Number of submissions</b> | 0           |

## Assessment

|                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |  |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| <b>Panel criteria</b><br>Section 7, SEPP<br>(State and Regional<br>Development) 2011 | Development with CIV >\$30 million. The proposal has a CIV of \$31,099,718.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |  |
| <b>Relevant section<br/>4.15(1)(a) matters</b>                                       | <ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development</li> <li>• Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River</li> <li>• Blacktown Local Environmental Plan 2015</li> <li>• Blacktown Development Control Plan 2015</li> <li>• Central City District Plan 2018</li> <li>• Blacktown Local Strategic Planning Statement 2020</li> </ul> |  |  |
| <b>Report prepared by</b>                                                            | Bertha Gunawan                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |  |
| <b>Report date</b>                                                                   | 3 December 2020                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |  |
| <b>Recommendation</b>                                                                | Approve, subject to the conditions listed in attachment 9.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |  |

## Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development Application plans
- 6 Assessment against planning control
- 7 Applicant's Clause 4.6 variation assessment
- 8 Clause 4.6 variation assessment
- 9 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? Yes

### 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? Yes

### 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

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## **1 Executive summary**

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- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- This proposal is an amending Development Application to JRPP-14-02628 which was assessed at that time under the Residential Flat Design Code, Blacktown Local Environmental Plan 1988 and Blacktown Development Control Plan 2006, as it was lodged on 24 December 2014, predating the commencement of the Apartment Design Guide, Blacktown Local Environmental Plan 2015 and Blacktown Development Control Plan 2015. The new components proposed under this application will be assessed against the current controls and the proposal is satisfactory against these controls.
  - The site is in the Mount Druitt CBD area which allows a maximum building height of 40 m. The proposal will exceed the maximum height by up to 0.55 m due to lift overruns and a small part of the parapet roof. The proposed extent of non-compliance is acceptable in the circumstances.
  - The internal building separation does not comply with the Apartment Design Guide requirements on levels 11 and 12. Notwithstanding that, amenity is adequately provided to the units on those levels, including solar access and privacy.
  - The apartment sizes and layout do not comply with ADG requirements for 6 units on approved levels 9 and 10. Notwithstanding this, the functionality of those units is adequately achieved.
  - The private open space and balcony sizes do not comply with the ADG requirements for 4 units on approved levels 9 and 10. The proposed non-compliant areas are minor (between 1 to 2 m<sup>2</sup>), which is not considered to be to the detriment of the amenity of future occupants.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is therefore satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 9.

## **2 Location**

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- 2.1 The site is located at 1 Zoe Place (at the corner of Mount Street), Mount Druitt and is within the established commercial area of the Mount Druitt Town Centre. This site is situated on the northern side of Zoe Place between Mount Street and Luxford Road and has a western elevation to Mount Street.
- 2.2 The location of the site is shown at attachment 1.
- 2.3 The site is surrounded by commercial businesses with associated car parking facilities. Mount Druitt Hospital is located further to the east beyond the Luxford Court Shopping Centre and the Shopsmart Outlet Centre. Public recreation areas and the Mount Druitt Swimming Centre are located to the south and south-west, and community uses and educational facilities uses further afield. The site is also located close to the Westfield Mount Druitt shopping centre and bus/rail interchange.
- 2.4 Adjoining the site to the north is a take away food outlet on the corner of Zoe Place and Luxford Road with vehicular entry/exit driveways via Zoe Place. Also adjoining to the north and located on the corner of Luxford Road and Mount Street are Lots 1 - 4 in DP 285600 containing a retail tyre outlet and other automobile related retail uses. Vehicular access to

Lots 1 - 4 is via the westbound Luxford Road deceleration lane and an entry-only driveway, with the exit being via either 1 of 2 right-of-carriageways over the subject site to Zoe Place (via the southbound or eastbound driveways).

### **3 Site description**

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- 3.1 The property address is known as 1 Zoe Place, Mount Druitt and is legally described as Lot 1 in DP 883859.
- 3.2 The site has a total area of 6,525 m<sup>2</sup> with a frontage of 215 m to Zoe Place and 23 m to Mount Street.
- 3.3 Construction of the approved mixed use building approved under JRPP-14-02628, including MOD-17-00036, MOD-18-00505 and MOD-19-00464, is currently underway.
- 3.4 An aerial image of the site and surrounding area is at attachment 2.
- 3.5 The site has vehicular access to Zoe Place, and via Mount Street and Luxford Road. It also has access to the regional road network along Carlisle Avenue to the Great Western Highway and the M4 and M7 motorways.
- 3.6 The site is zoned B4 Mixed Use under Blacktown Local Environmental Plan 2015 (BLEP 2015). The approved development is defined as a 'mixed use development' which is permissible in the zone.
- 3.7 The zoning plan for the site and surrounds is at attachment 3.

### **4 Background**

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- 4.1 The original DA for this site was approved by the Joint Regional Planning Panel (JRPP) in 2015 under JRPP-14-02628. Approval was for the demolition of a single storey shopping complex and construction of a 10 storey mixed use building comprising 15 retail/commercial tenancies (2,449 m<sup>2</sup>), 268 residential units in 3 separate building blocks, and 3.5 levels of parking for 468 vehicles.
- 4.2 That DA was modified under MOD-17-00036 and approved under delegated authority in 2017 to stage the development, delete 2 residential units and increase car parking to 492 spaces.
- 4.3 The DA was further modified under MOD-18-00505 and approved by the Sydney Central City Planning Panel in 2019 to convert the car parking area on Level 1 to a supermarket and provide an additional basement level for parking. The modification also approved an office mezzanine level associated with the supermarket and a reconfigured retail area on Level 1, including a total of 570 car parking spaces.
- 4.4 On 5 May 2020, the Department of Planning, Industry and Environment gazetted PP\_2017\_BLACK\_001\_00 which amended BLEP 2015 to facilitate a mix of residential, commercial and retail developments within the Mount Druitt CBD by removing the B3 zoning, increasing the B4 zoning, removing the floor space ratio controls, increasing the building height limits and introducing incentive building heights for key and gateway sites where an architectural design competition applies.
- 4.5 The subject site is included in the above LEP amendment. This means that a maximum of 40 m building height now applies to the site without any FSR control.
- 4.6 MOD-19-00464 in respect of the above JRPP approval was subsequently approved on 13 August 2020 to reconfigure the apartment mix, including more 3 bedroom units (but keeping the total unit numbers at 266 as approved under MOD-17-00036), reconfigure the communal open space area access and change the external facade including increased balcony areas to improve residential amenity and compliance with the Apartment Design Guide (ADG).



4.7 On 12 May 2020 this current application was lodged with Council.

## **5 The proposal**

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- 5.1 The applicant proposes construction of 2 additional levels (levels 11 and 12) to an approved mixed use development under JRPP-14-02628 (and as subsequently modified), including amendments to the approved levels 9 and 10, and creating an increase in the number of apartments from 266 to 372, being a total increase of 106 apartments.
- 5.2 Our City Architect initially raised concerns relating to bulk and scale impacts from the proposed levels 11 and 12 having a proposed zero setback to the street frontages. The proposed 3 large footprint buildings with a zero setback to the street frontages would have created a continuous wall for the full height of a 12 storey building and would be imposing on the streetscape.
- 5.3 In the original approval under JRPP-14-02628, the design concept had the 2 upper levels (being current levels 9 and 10) recessed, which is considered to achieve a better presentation to the street through reducing the perceived height and actual bulk and scale of the development. Our City Architect considered this to be an important element to retain. On this basis, our City Architect sought amendments to set levels 11 and 12 back further from the street for an improved urban form and to ensure compliance with the Apartment Design Guide's building separation controls.
- 5.4 The final amended plans were submitted for Council's consideration on 13 November 2020 and these current plans are the subject of this report. Notably, levels 11 and 12 are now proposed to be setback at least 2 m from the street frontages by way of deleting 10 units, and the extent of non-compliances to the maximum building height is also reduced. The proposed number of apartments in this final proposal is less than originally lodged, being a total of 362 apartments, from the initially proposed 372 units (being an increase of 96 apartments or 10 apartments less than before), with the proposed total car parking being 560 spaces.
- 5.5 Other details about the final proposal are at attachment 4, including the applicant's Clause 4.6 request for maximum building height variation, and a copy of the development plans is at attachment 5.

## **6 Assessment against planning controls**

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- 6.1 A full assessment of the DA against relevant planning controls is at attachment 6.

## **7 Key issues**

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### **7.1 Different key planning controls between original approval and current application**

- 7.1.1 The original DA approved in 2015 under JRPP-14-02628 was subject to different environmental planning instruments and development control plan.
- 7.1.2 The original DA was assessed under the Residential Flat Design Code, Blacktown Local Environmental Plan 1988 and Blacktown Development Control Plan 2006, as it was lodged on 24 December 2014 predating the commencement of the Apartment Design Guide (19 June 2015), Blacktown Local Environmental Plan 2015 (on 7 July 2015) and Blacktown Development Control Plan 2015 (on 15 July 2015).
- 7.1.3 The key changes between 2014 and 2020 are shown in the table below:

| Category                          | 2014: Lodgement of original DA<br>Blacktown LEP 1988 | 2020: Lodgement of this DA<br>Blacktown LEP 2015 and within the Mount Druitt CBD area |
|-----------------------------------|------------------------------------------------------|---------------------------------------------------------------------------------------|
| <b>Zoning</b>                     | 3(a) General Business<br>Permissible with consent    | B4 Mixed Use<br>Permissible with consent                                              |
| <b>Height of building control</b> | None in BLEP 1988<br>Approved: 33 m (10 storeys)     | 40 m                                                                                  |
| <b>Floor space ratio control</b>  | None in BLEP 1988<br>Approved: 4.3:1                 | No FSR control                                                                        |

7.1.4 This proposal is assessed under the current planning controls, which prescribe no FSR limit and a 40 m maximum building height. Additional levels 11 and 12 have been assessed against the current Apartment Design Guide requirements.

## 7.2 Non-compliant building height

7.2.1 The site is in the Mount Druitt CBD area which allows a maximum building height on this site of 40 m. The current proposal will exceed the maximum height by up to 0.55 m as a result of the proposed lift overruns and a small part of the parapet roof, creating an overall building height of 40.55 m.

7.2.2 The applicant has provided a Clause 4.6 variation request, although it was based on the initial proposal which requested a greater height variation of up to 40.6 m. The applicant has not provided a revised Clause 4.6 variation request with the current amended proposal, but the main elements that breached the maximum building height remain the same, being the lift overruns and a small part of the parapet roof. The applicant's Clause 4.6 variation request is at attachment 7.

7.2.3 The proposed building height variation is considered very minor. The lift overruns are centrally located within the building and the parapet roof is sited on the northern end of the building. These elements will not create unreasonable overshadowing nor display an unacceptable bulk and scale impact to surrounding properties or the streetscape. A detailed assessment of the applicant's Clause 4.6 submission is at attachment 8.

7.2.4 Based on the extent of the proposed variation, the Clause 4.6 variation request is considered reasonable and well founded in this particular circumstance and is recommended for support.

## 7.3 Non-compliant internal building separation against the ADG requirements

7.3.1 For buildings higher than 9 storeys, the Apartment Design Guide requires a minimum of 24 m building separation between habitable rooms and balconies.

7.3.2 The proposal does not comply with this provision, as the proposed separation distances between the 3 residential flat buildings on levels 9 and 10 are only between 6.2 m and 17.2 m. These are existing non-compliances from the previous development approval and its subsequent modifications. The proposed 6.2 m separation, in particular, is between offset windows, which are not considered to create direct overlooking impacts between the units.

7.3.3 The proposed internal separations of between 6.2 m and 17.2 m between the 3 buildings on level 11 are also non-compliant. Nevertheless, the main balcony areas between them are orientated not to directly overlook one another, and planter boxes are proposed along the balconies to improve visual privacy.



- 7.3.4 On level 12 where internal separation distances are only proposed between 16.2 m and 21.8 m, privacy can be improved by way of highlight windows to a bedroom and living area, and by way of installing a sliding louvre to a balcony.
- 7.3.5 The above considerations and provisions will improve privacy between the internal building separations without compromising the internal amenity of the future unit occupants. These measures are included as conditions of consent in the pre-Construction Certificate section, to ensure amended plans are prepared to reflect these changes.

#### **7.4 Non-compliant apartment size and layouts**

- 7.4.1 There are 2 x 2 bedroom units that do not comply with the minimum apartment size of 75 m<sup>2</sup>. The proposed non-compliance is marginal at only 1 m<sup>2</sup> under the requirement.
- 7.4.2 There are 4 x 3 bedroom units proposed between 86 and 92 m<sup>2</sup>, when the minimum size should be 95 m<sup>2</sup>. These units are located on existing levels 9 and 10 and, notwithstanding the undersized areas, the functionality of those units is adequately achieved.
- 7.4.3 The proposed variations are acceptable in this instance given that the amenity and functionality of these spaces will not be significantly adversely compromised.

#### **7.5 Non-compliant private open space and balconies**

- 7.5.1 There are 4 x 3 bedroom units providing balconies with sizes between 10 and 11 m<sup>2</sup>, which is a minor non-compliance to the minimum 12 m<sup>2</sup> under the Apartment Design Guide, and is considered not to be detrimental to the amenity of future occupants.
- 7.5.2 The proposed variation is acceptable in this instance as the amenity and functionality of these spaces will not be compromised.

### **8 Issues raised by the public**

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- 8.1 The Development Application was notified to property owners and occupiers in the locality between 24 June and 8 July 2020. It was also advertised in the local newspapers and a sign was erected on the site.
- 8.2 We received no submissions.
- 8.3 The final amended plans that are the subject of this report were not renotified to adjoining neighbours as the amendments will now reduce the bulk and scale impacts when viewed from the street and will reduce the number of apartments by 10 apartment units, delete the rooftop common open space, as well as increasing the building separation. These amendments will improve the visual appearance of the buildings between the 3 buildings, to neighbours as well as to the amenity of the surrounding properties, in comparison to the initial plans that underwent public notification. On this basis the amended plans are in the public interest.

### **9 External referrals**

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

### **10 Internal referrals**

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- 10.1 The Development Application was referred to the following internal sections of Council for comment:



| Section        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| City Architect | <p>Comments are provided as follows:</p> <p>The proposal retains the intent of the previously approved DA, being a 2 storey component of the building being set back from the main building line. In doing so the development will:</p> <ul style="list-style-type: none"> <li>• have an improved streetscape presentation through a reduced mass and a less dominant street wall</li> <li>• marginally improve through site visual links and overshadowing on the southern sites</li> <li>• afford residents with improved privacy through increased separation distances to the upper floors.</li> </ul> <p>It is recommended that planter boxes be incorporated into the balconies on level 11, to improve amenity and provide some shade and relief from heat.</p> <p>This condition for planter boxes to the units on level 11 will be incorporated into the consent conditions as a pre-Construction Certificate matter, to ensure these are shown on the approved building construction plans.</p> |
| Traffic        | Satisfactory                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Building       | Satisfactory subject to conditions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Waste          | Satisfactory                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

## 11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions as a pre-Construction Certificate matter, to ensure the approved building plans exhibit the required changes.

## 12 Recommendation

- 1 Uphold the applicant's Clause 4.6 written request to vary the height of buildings development standard in Clause 4.3 of Blacktown Local Environmental Plan 2015 for the following reasons:
  - a The proposal is compatible with the emerging scale of development in the locality.
  - b The proposed areas that exceed the height limit are insignificant in bulk and scale, and detrimental amenity impacts are unlikely. Despite the height exceedance, the proposal provides a development that is compatible with the desired future character of the Mount Druitt CBD.
- 2 Approve SPP-20-00003 for the reasons listed below and subject to the conditions listed in Attachment 9.
  - a The proposed additional bulk and scale to the approved development maintains a satisfactory streetscape appearance consistent with the desired Mount Druitt CBD character [Section 4.15 (c) of the Environmental Planning and Assessment Act 1979].

- b The proposal maintains the amenity provided in the original approval for future residents and ensures that amenity consistent with the Apartment Design Guide is achieved for the additional 2 floors [Section 4.15 (b) of the Environmental Planning and Assessment Act 1979].
  - c The proposal is consistent with the development objectives in the Mount Druitt CBD [Section 4.15 (a)(i)(iii) of the Environmental Planning and Assessment Act 1979].
- 3 Council officers notify the applicant of the Panel's decision.



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