

Application No:	MOD2020/0414
Applicant:	Hezlett Group Pty Limited & Mr E Maroun PO Box 3980 PARRAMATTA NSW 2124
Property Description:	9 Sherwood Road MERRYLANDS WEST NSW 2160, Lot 101 DP 789369, Lot 2 RO 616486, Lot 1 DP 548919, Lot 1 RO 616486
Development:	Section 4.55(2) modification for alterations and additions to an approved mixed use development, including the removal of three retail tenancies, introduction of ten additional residential units (inclusive of an additional floor level above building B), reduction in parking and changes to the design of the building, including the provision of additional communal area, windows and blade walls.
Determined by:	Sydney Central City Planning Panel

REASON FOR REFUSAL

1. The development, as modified, is not substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified.

(S.4.55(2) of the *Environmental Planning and Assessment Act 1979*)

2. Failure to demonstrate compliance with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, with regard to the following:-

Clause 28(2) – Determination of Development Applications

- 2.1 In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration the provisions of the Apartment Design Guide (ADG). The proposal is unsatisfactory with regard to the following provisions of the ADG:

3H & J – Vehicle Access and Car Parking

- 2.1.1 By reason that the reconfiguration of carpark facing Coolibah Street will not maintain the safety of its users and will result in more onerous wayfinding for commercial/residential visitors and users. Pedestrian safety has not been maintained in this regard.

4A – Solar and Daylight Access

- 2.1.2 By reason that 5 out of the 10 additional units (nos. 8, 9, 46, 47 and 48) proposed under the development as modified will not receive direct solar access. Residential amenity of the development has not been maintained in this regard.

4F – Common Circulation and Spaces

- 2.1.3 By reason of inadequate provision of suitable weather protected access between the lift and the Block B, Level 6 units, residential amenity of the development has not been maintained in this regard.

4H & J – Acoustic and Privacy and Noise and Pollution

- 2.1.4 By reason of inadequate revised acoustic assessment submitted with the application, the development compromises amenity of future residents and adjoining properties.

4S – Mixed Use

- 2.1.5 By reason of inadequate pedestrian access from the car park to commercial premises on Sherwood Road, the development compromises the safety and amenity of the customers and building occupants.

4W – Waste Management

- 2.1.6 Waste storage facility design fails to provide sufficient number of bins for the additional uses and access to garbage chute for the proposed Block B, Level 6 units.

(S.4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*)

3. Failure to demonstrate compliance with Holroyd Local Environmental Plan (HLEP) 2013, with regard to the following:-

Objectives of the Zone

- 3.1 The development as modified does not meet an objective of the zone in that it does not permit residential development that is complementary to, and well-integrated with, the commercial uses, particularly the addition of 4 units infill on Level 2 replacing the approved 3 retail shops, a bin room and associated commercial car parking spaces within Sherwood Road frontage. The changes proposed will result in disjointed access to Sherwood Road commercial premises particularly for disabled persons, increase the bulk and scale of the central building, reduce amenity for the new units in terms of solar access and acoustic privacy, and inadequate waste management for the overall development.

Clauses 4.3 Height of Buildings

- 3.2 Pursuant to the Height of Buildings Map referred to in Clause 4.3(2) of HLEP 2013, the maximum permissible building height for the site is 17m (Block B). The maximum height of the proposed building Block B is 18.74m, which is 1.74m greater than the maximum building height, representing a 11.3% variation to the development standard. The development as modified has not adequately demonstrated the additional variation to the building height would allow for the residential development that is complementary to, and well-integrated with the commercial uses on the site.

Clauses 4.4 Floor Space Ratio (FSR)

- 3.3 Pursuant to the Floor Space Ratio Map referred to in Clause 4.4(2) of HLEP 2013, the maximum permissible floor space ratio (FSR) for the site is 2.4:1 and 2.2:1. The maximum FSR of the proposed building is 2.61:1 and 2.37:1 representing variations of 8.77% and 8.01%. The development as modified has not adequately demonstrated the additional variation to the building height would allow for the residential development that is complementary to, and well-integrated with the commercial uses on the site.

Clause 6.5 – Essential Services

- 3.4 The proposed new location of the substation will encroach on the fire restriction zone of the development.

(S.4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*)

4. Failure to demonstrate compliance with Holroyd Development Control Plan (DCP) 2013, Part A – General Controls, with regard to the following:-

3.3 - Car Parking Dimensions and 3.5 – Access Manoeuvring and Layout

- 4.1 The proposal fails to provide proper design to allow vehicles manoeuvring that maintains safety on curved ramp and circulation roadways and that reduces delays and congestion. The location of loading bay 2 will result in conflict between commercial and residential pedestrians and vehicles.

3.6 – Parking for Disabled

- 4.2 By the reason that no commercial accessible car parking spaces are provided, the proposal fails to provide the required parking spaces for disabled person.

(S.4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*)

5. Failure to demonstrate compliance with Holroyd Development Control Plan (DCP) 2013, Part C – Commercial, Shop Top Housing and Mixed Use Controls, with regard to the following:-

2.2 - Pedestrian Access

- 5.1 By the reason that poor access provided from the car parking area for pedestrians and customers to the commercial premises on Sherwood Road, the proposal fails to provide the required access for the development.

(S.4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*)

6. Failure to demonstrate compliance with Holroyd Development Control Plan (DCP) 2013, Part L – Town Centre Controls, with regard to the following:-

3.3 - Building Height

- 6.1 The maximum number of storeys for building Block B on the subject site is 4 storeys. However, the development proposes a maximum 6 storey building. Given that the proposed variation to height of buildings is not supported, the storey exceedance is also considered acceptable.

(S.4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*)

Environmental Impact

7. Due to the matters detailed above, the likely environmental impacts of the proposed development are considered to be unacceptable.

(S.4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*)

Public Interest

8. Due to the deficiencies detailed above, approval of the proposed development would be contrary to the public interest.

(S.4.15(1)(d) & (e) of the *Environmental Planning and Assessment Act 1979*)