

DETERMINATION AND STATEMENT OF REASONS
SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	10 June 2021
PANEL MEMBERS	Noni Ruker - Acting Chair, Ken McBryde, Stuart McDonald, Clr Ned Attie and Clr Eddy Sarkis
APOLOGIES	Abigail Goldberg
DECLARATIONS OF INTEREST	David Ryan advised that he his company has been engaged by this applicant on some of its other projects.

Public meeting held by public teleconference on 10 June 2021, opened at 10.00am and closed at 11.28am.

MATTER DETERMINED

PPSSCC-194 - MOD2020/0373 – Cumberland – Lots 12 & 13 Butu Wargun Drive, Pemulwuy, Lots 12 & Lot 13 in DP 1162280, Section 4.55(2) for various modifications to the approved residential flat buildings including additional floors and roof terraces and car parking spaces, amendments to unit mix and floor levels, and deletion of internal roads (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at items 7 and 8 in Schedule 1.

Modification application

The Panel determined to **approve** the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was **unanimous**.

REASONS FOR THE DECISION

1. The development, as modified, is substantially the same as that originally approved.
2. The proposed development, as modified, and subject to the imposition of conditions imposed by the Panel, will have no unacceptable adverse environmental, social or economic impacts in the locality.
3. The development, as modified, will be in the public interest.
4. The modifications do not significantly change the original consent.
5. Modifications that have been made such as: an increase in parking spaces, deletion of internal roads, change in apartment mix and increase in apartment numbers have been adequately addressed in the design and the Council's assessment report.
6. The deletion of internal roads offers more landscaped areas across the site and opportunities for additional communal open space and passive recreation.
7. The Panel is satisfied that, subject to an additional condition of approval, vehicular access and pedestrian movement will be separated such that Kuma Place services mainly vehicular access.
8. The Panel is of the view that the additional cut and lowering of the building may result in an unsatisfactory relationship between some dwellings and high retaining walls. Conditions have been drafted to address this. Refer to conditions 1. and 2.

CONDITIONS

The modification application was approved subject to conditions listed in Council assessment report with additional conditions listed below:

1. The non-trafficable, skillion roofs and green roofs are to be retained as per the original consent.

2. Apartments and corridors/atrium areas in all blocks and in particular in blocks A, D, E and apartment B201 abutting rear or side high retaining walls are to be configured in accordance with the Design Criteria and Design Guidance of the Apartment Design Guide. Where habitable rooms face high retaining walls, in excess of 2m in height, at least 2.5m separation distance is to be provided. Details of compliance with this condition are to be provided for the Council's written approval prior to the lodgement of the first construction certificate for above ground works.
3. Apartments abutting external communal areas and/or external circulations spaces are to be provided with privacy solutions to avoid overlooking into private outdoor spaces and habitable rooms. Details of compliance with this condition are to be provided for the Council's written approval prior to the lodgement of the first construction certificate for above ground works.
4. Pedestrian and cycle movements are to be further separated from vehicular and truck access areas. Details of compliance with this condition are to be provided for the Council's written approval prior to the lodgement of the first construction certificate for above ground works.
5. Solar Access to the development on the adjoining Lot 101 is to be in accordance with the Design Criteria in Part 4A-1 of the Apartment Design Guide. Details of compliance with this condition are to be provided for the Council's written approval prior to the lodgement of the first construction certificate for above ground works.
6. Visual Impacts to and from the State Heritage Item Prospect Hill are to be no greater than the original development consent. Details demonstrating compliance with this condition are to be provided for the Council's written approval prior to the lodgement of the first construction certificate for above ground works.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel has carefully considered written and verbal submissions made during public exhibition and the public meeting. The Panel notes the following main issues of concern included:






- Increases in traffic movements and congestion along Kuma Place, Winnima Circuit and Butu Wargun Drive.
- Increase in demand for on-street parking within the area, particularly Winnima Circuit.
- Culminative impacts of increased height within proximity to existing two storey dwellings.
- Increase in the number of storeys from 3-4 to 3-4 and 5.
- The capacity of existing community infrastructure to support increased densities including schools, child-care centres, public transport, public parks and open spaces and local roads. Noting the demographic make up of the area with a large proportion of families with young children.
- An increase in units from 300 to 317 resulting in an overly large and bulky development.
- An unsuitable balance between development and community benefit.
- Breaching of height limits.
- Deletion of internal roads.
- Sun access.
- The adequacy of emergency evacuation.
- The inability of Winnima Circuit to accommodate additional traffic generated by the development.

The Panel considers that the all the issues listed above were most relevant to the existing DA which has been approved.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that technical studies have been duly carried out which have determined that no additional impacts will occur to local infrastructure, overshadowing, heritage, roads or open space.

The Panel considers the Section 4.55(2) modification application does not increase or exacerbate any of the above issues raised in light of the evidence in the technical studies and Council's assessment report.

No new issues were raised during the public meeting requiring further assessment.

PANEL MEMBERS	
 Noni Ruker (Acting Chair)	 Ken McBryde
 Ned Attie	 Eddy Sarkis
 Stuart McDonald	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-194 - MOD2020/0373 – Cumberland
2	PROPOSED DEVELOPMENT	Section 4.55(2) for various modifications to the approved residential flat buildings including additional floors and roof terraces and car parking spaces, amendments to unit mix and floor levels, and deletion of internal roads
3	STREET ADDRESS	Lots 12 & 13 Butu Wargun Drive, Pemulwuy, Lots 12 & Lot 13 in DP 1162280
4	APPLICANT/OWNER	Applicant – Mintus Holdings Pty Ltd Owner - Mintus Holdings Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) modification application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Holroyd Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Holroyd Development Control Plan 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation</i>

		<p>2000</p> <ul style="list-style-type: none"> • Coastal zone management plan: [Nil] • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 25 May 2021 • Clause 4.6 request submitted to vary Building Height standard • Written submissions during public exhibition: 66 individual submissions were received, in which 40 were unique submissions. • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Nikhil Chavda, Linda Rice, Gaurav Gautam, Balasingam Nimal and Kieron Maye speaking on behalf of the Pemulwuy community group. ○ Council assessment officer – Diep Hang, Michael Lawani and Jai Shankar ○ On behalf of the applicant – Adam Byrnes - Director Think Planners and Robert Del Pizzo - Director Architex
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: Site inspections have been curtailed due to COVID-19. Where relevant, Panel members undertook site inspection individually. • Final briefing to discuss Council’s recommendation, 10 June 2021, 9.30am (teleconference) Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Noni Ruker - Acting Chair, Ken McBryde, Stuart McDonald, Ned Attie and Eddy Sarkis (Suzie Jattan and Sung Pak on behalf of Panel Secretariat). ○ <u>Council assessment staff</u>: Diep Hang - Senior Development Planner, Michael Lawani - Coordinator Major Development Assessment, Jai Shankar - Executive Manager, Development and Building, Esra Calim - Coordinator Development and Building Systems and Rashika Rani - Development and Building Systems Support Officer. <p><u>Points Discussed:</u></p> <ul style="list-style-type: none"> ○ Council discussed the assessment report which includes the history of the site and the assessment of the application and the issues raised in all submissions including the late submissions received prior to panel meeting on 10 June 2021.
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Provided with Draft Notice of Determination at Attachment 1.

