

Modification report to Sydney Central City Planning Panel

Panel reference: PPSSCC-443

Modification application

MOD number	MOD-22-00316	Date of lodgement	1 August 2022
Applicant	DFP Planning Pty Ltd		
Owner	JLL Development Pty Ltd		
Proposed development	S4.55(2) modification application to increase the overall height and floor area of the building, reduce the number of apartments from 85 to 70, amend the internal layouts of all levels and apartment mix, reduce the rooftop communal open space area, modify the basement car parking levels and reduce number of car spaces from 112 spaces to 103 spaces.		
Street address	55 Newton Road, Blacktown		
Notification period	25 August to 8 September 2022	Number of submissions	0

Assessment

Panel criteria Sydney and Regional Planning Panels Operational Procedures	<ul style="list-style-type: none"> Section 4.55(2) application for regionally significant development. Conditions imposed by the Sydney Central City Planning Panel are proposed to be deleted.
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning & Assessment Act 1979. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development. Blacktown Local Environmental Plan 2015. Blacktown Development Control Plan 2015.
Report prepared by	Jared Spies
Report date	12 July 2023
Recommendation	Approve, subject to conditions listed in attachment 6.

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
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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
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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?	Not applicable
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)?	Not applicable
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Conditions

Have draft conditions been provided to the applicant for comment?

No

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Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Development application plans
- 5 Assessment against planning controls
- 6 Draft conditions of consent
- 7 Extract of report for original JRPP-16-04457

1 Executive summary

- 1.1 The key issues to be considered by the Panel in respect of this modification application are:
 - The proposed increase in the overall building height by a further 1.225 m. Despite this increase in height, the only elements of the building that intrude into the height plane are plants and equipment, the lift overrun and balustrade. The applicant has requested an increase to each level (floor to floor) height ranging from 25 - 475 mm. The changes are required to meet Building Code of Australia requirements, provide adequate waterproofing and meet minimum floor to ceiling heights within apartments. These are essential services, so in these circumstances this height variation is recommended to be supported to facilitate this work.
 - A minor, 0.15 m, variation to the front setback controls. This is considered acceptable since the increased balconies will achieve better amenity outcomes for residents whilst not having any additional perceptible visual impact.
 - An increase of the gross floor area. This is considered acceptable because no maximum floor space ratio applies to the site and the bulk and scale of the building will still be similar to the approved building.
 - The proposed deletion of conditions 6.3.3.1 and 6.3.3.2 relating to transplanting of 3 existing trees (2 fruit trees and 1 Lilly Pilly) to another location on site. This is considered acceptable since our open space section has confirmed that the trees would not survive being transplanted.
 - The inclusion of several large storage rooms. These could be misconstrued as being habitable rooms, and therefore we recommend restrictions being included on the strata plan to ensure that all apartments only use the storage areas for storage purposes and never used as habitable rooms.
 - A reduction of the combined communal open space area. This is considered acceptable because it still complies with the minimum 25% of the site area prescribed by the Apartment Design Guide.
 - A reduction of the combined deep soil zone area. This is considered acceptable because it still complies with the minimum 7% of the site area prescribed by the Apartment Design Guide.
 - A reduction in the number of car parking spaces from 112 to 103, which is considered acceptable because it still complies with the car parking requirements in the Apartment Design Guide.
 - A reduction in the number of apartments from 85 to 70 and an amendment to the apartment mix. This is considered acceptable since the resultant percentages of 1, 2 and 3-bedroom units is more satisfactorily proportioned.
 - The need to delete, amend and add conditions of consent based on our internal sections' comments provided on the amended proposal.
- 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 considered to be 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 6.

2 Location

- 2.1 The site is located at 55 Newton Road, Blacktown. It is on the north-eastern corner of the intersection of Newton Road and Carinya Street.
- 2.2 The site is at the interface between 2 housing areas. It is located on the northern side of Newton Road, which is the southern boundary of a high-density housing redevelopment area, zoned R4 High Density Residential with a height limit of 20 m. Immediately to the south of Newton Road is a low-density housing area, zoned R2 Low Density Residential with a height limit of 9 m. Consequently, the subject site is on the edge of a transition from the higher to the lower density housing area.
- 2.3 The immediate locality is characterised by a mixture of predominantly older style dwelling houses of varying architectural styles and 2-storey multi dwelling housing developments. One residential flat building also to the north-west of the site.
- 2.4 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The lot is legally described as Lot 1 DP 1283495. The site is currently vacant.
- 3.2 The combined site has a slightly irregular rectangular shape, with a total area of 2,816 m². The rear northern boundary is 60.45 m, the western boundary to Carinya Street is 50.29 m, the southern frontage to Newton Road is 60.96 m and the eastern boundary is 40.61 m.
- 3.3 The topography is characterised by a slight slope falling 2 m across the site from the south-east corner at Newton Road to the north-west corner at Carinya Street.
- 3.4 The site is zoned R4 High Density Residential, with a 20 m maximum height of buildings development standard under the Blacktown Local Environmental Plan 2015. There is no floor space ratio or site cover control for the site.
- 3.5 An aerial image of the site and surrounding area is at attachment 2. The zoning plan for the site and surrounds is at attachment 3.

4 Background

- 4.1 Approval was granted by the Sydney Central City Planning Panel on 21 February 2018 under JRPP-16-04457 for construction of a 6-storey residential flat building containing a total of 85 units, provision of 112 car parking spaces over 2 basement levels, associated demolition of existing dwellings and outbuildings, tree removal, stormwater drainage works and landscaping.
- 4.2 The Panel approved the application with an increase in height of up to 2.65 m pursuant to Clause 4.6 as point encroachments to cater for lift overruns, stairs and rooftop communal open space features above the 20 m maximum building height limit.
- 4.3 Extracts from the report supporting the original development application are at attachment 7 to this report.
- 4.4 All trees have been removed and all 4 dwellings demolished since the approval was granted, hence the site's current vacant status.

5 The proposal

- 5.1 This modification application has been lodged by DFP Planning Pty Ltd.

5.2 The applicant proposes to modify the architectural, civil engineering and landscape plans and conditions of consent approved under JRPP-16-04457. The modifications proposed are as follows:

5.2.1 Basement Level 2:

- Revise car park layout and ramp design, to address vehicle access, number of parking spaces, waste storage and to meet minimum head height requirements.
- Remove 2 plant rooms not required (north-west and south-west corners).
- Relocate storage units within former plant room spaces.
- Relocate pump room from Basement 1 to Basement 2 (south-east corner).
- Relocate western fire stairs to meet minimum head height requirements.
- Add access area and door between stairwell and pump room.
- Adjust the number of car parking spaces from 60 (52 resident and 8 visitor) to 60 spaces (60 resident only), to accommodate the relocated pump room and revised car park layout.
- Lower finished floor level by 0.225 m from Reduced Level 50.2 m (approved) to Reduced Level 49.975 m (proposed).

5.2.2 Basement Level 1:

- Revise car park and ramp design layout, to address vehicle access, turning circles to ramp and utilise space more efficiently.
- Add enclosed area for bicycle, motor bike and storage units area.
- Enlarge size of sprinkler tank area (south-eastern corner).
- Alter waste storage spaces.
- Relocate western fire stairs to meet minimum head height requirements.
- Add roller shutter at ramp.
- Adjust the number of car parking spaces from 52 (43 resident and 9 visitor) to 43 (29 resident and 14 visitor) to accommodate sprinkler tank area and revised car park layout.
- Lower finished floor level by 0.125 m from Reduced Level 53 m (approved) to Reduced Level 52.875 m (proposed).

5.2.3 Ground Floor:

- Reduce number and mix of proposed apartments from 14 apartments (2 x studio, 5 x 1-bedroom and 7 x 2-bedroom) to 11 apartments (1 x 1-bedroom, 6 x 2-bedroom and 3 x 3 bedroom).
- Amend internal layouts of apartments to improve design and still meet Apartment Design Guide requirements.
- Add air intake location (north-east corner), to provide fresh air to Basement Levels 1 and 2.
- Relocate and amend substation design (Carinya Street) to meet provider requirements/easements.

- Amend bin collection and storage area to improve loading dock space and reduce conflict with driveway ramp. Alteration to Unit G04 and Unit G05 to accommodate new bin storage/collection area layout.
- Alter communal lobby to comply with the requirements of AS 1428.1 and add new door at northern end to improve security.
- Identify gas meter location (adjacent to Carinya Street).
- Increase gross floor area by 80.8 m² from 1,048 m² to 1,128.8 m².
- Reduce communal open space by 176 m² from 518 m² to 342 m². Whilst the footprint of the building is unchanged, the decreased communal open space is due to the location of the larger planter boxes, courtyards and carpark air intake.
- Raise finished floor level by 0.075 m from Reduced Level 56.5m (approved) to Reduced Level 56.575 m (proposed).

5.2.4 Level 1:

- Reduce number and mix of proposed apartments from 15 apartments (6 x 1-bedroom and 9 x 2-bedroom) to 13 apartments (2 x 1-bedroom, 9 x 2-bedroom and 2 x 3-bedroom).
- Amend internal layouts of apartments to improve design and still meet Apartment Design Guide requirements.
- Increase gross floor area by 23.54 m² from 1,141 m² (approved) to 1,164.54 m² (proposed).
- Raise finished floor level by 0.025 m from Reduced Level 59.8 m (approved) to Reduced Level 59.825 m (proposed).
- Increase the size of private open space including reduction in front setback by 0.15 m to provide usable area and design.
- Add new window to ensuite bathroom of Unit 111.

5.2.5 Level 2:

- Reduce number and mix of proposed apartments from 15 apartments (6 x 1-bedroom and 9 x 2-bedroom) to 13 apartments (2 x 1-bedroom, 9 x 2-bedroom and 2 x 3-bedroom).
- Amend internal layouts of apartments to improve design and still meet Apartment Design Guide requirements.
- Increase gross floor area by 23.54 m² from 1,141 m² (approved) to 1,164.54 m² (proposed).
- Raise finished floor level by 0.125 m from Reduced Level 62.85 m (approved) to Reduced Level 62.975 m (proposed).
- Increase the size of private open space including reduction in front setback by 0.15 m to provide usable area and design.
- Add new window to ensuite bathroom of Unit 211.

5.2.6 Level 3:

- Reduce number and mix of proposed apartments from 15 apartments (6 x 1-bedroom and 9 x 2-bedroom) to 13 apartments (2 x 1-bedroom, 9 x 2-bedroom and 2 x 3-bedroom).

- Amend internal layouts of apartments to improve design and still meet Apartment Design Guide requirements.
- Increase gross floor area by 23.54 m² from 1,141 m² (approved) to 1,164.54 m² (proposed).
- Raise finished floor level by 0.225m from Reduced Level 65.9 m (approved) to Reduced Level 66.125 m (proposed).
- Increase the size of private open space including reduction in front setback by 0.15 m to provide usable area and design.
- Add new window to ensuite bathroom of Unit 311.

5.2.7 Level 4:

- Reduce number and mix of proposed apartments from 13 apartments (7 x 1-bedroom and 6 x 2-bedroom) to 10 apartments (6 x 2-bedroom and 4 x 3-bedroom).
- Amend internal layouts of apartments to improve design and still meet Apartment Design Guide requirements.
- Increase gross floor area by 31.48 m² from 992 m² (approved) to 1,023.48 m² (proposed).
- Raise finished floor level by 0.375 m from Reduced Level 69 m (approved) to Reduced Level 69.375 m (proposed).
- Increase the size of private open space including reduction in front setback by 0.15 m to provide usable area and design, and larger balconies to units 405, 408 and 409.

5.2.8 Level 5:

- Reduce number and mix of proposed apartments from 13 apartments (7 x 1-bedroom and 6 x 2-bedroom) to 10 apartments (6 x 2-bedroom and 4 x 3-bedroom).
- Amend internal layouts of apartments to improve design and still meet Apartment Design Guide requirements.
- Increase gross floor area by 31.48 m² from 992 m² (approved) to 1,023.48 m² (proposed).
- Raise finished floor level by 0.475 m from Reduced Level 72.05 m (approved) to Reduced Level 72.525 m (proposed).
- Increase the size of private open space including reduction in front setback by 0.15 m to provide usable area and design.

5.2.9 Roof Terrace:

- Reduce the overall size of communal open space area by 385.43 m² from 910 m² to 524.57 m².
- Raise finished floor level by 0.475 m from Reduced Level 72.05 m (approved) to Reduced Level 72.525 m (proposed).
- Increase gross floor area by 14.29 m² from 14 m² (approved) to 38.29 m² (proposed).

5.3 The applicant also proposes modifications to several conditions of consent as outlined below:

- 5.3.1 Condition 2.1.1 relating to the approved plans
 - the approved plans table is to be updated to reflect the amended architectural and landscape plans.
- 5.3.2 Condition 2.1.2 relating to the number of apartments approved per apartment type
 - to be amended to reflect the modified apartment mix.
- 5.3.3 Condition 2.5.1 relating to the BASIX Certificate to be complied with
 - to replace the superseded BASIX Certificate with the one issued for the modified plans.
- 5.3.4 Condition 5.7.1 and 5.7.2 relating to acoustic privacy and treatments required as per the recommendations of the acoustic report
 - to replace the references to the previous acoustic report with the one submitted to respond to the modified proposal.
- 5.3.5 Condition 5.9.1 relating to the required deletion of references to kerbside bin collections from the plans
 - to be deleted because the previous plans incorrectly showed kerbside bin collection. The new plans indicated collection is from the waste collection area only. The waste management plan also makes it clear that waste collection will occur from the on-site waste area.
- 5.3.6 Condition 6.1.1 relating to the Section 7.11 Contributions applicable to the development
 - to be updated to reflect the contributions applicable to the population generated by the amended proposal.
- 5.3.7 Condition 6.3.2(a) relating to the finishes and materials approved for the building
 - to be updated to reflect the amended schedule of finishes shown on the amended plans.
- 5.3.8 Condition 6.3.3.1 relating to 3 existing trees to be transplanted on site
 - to be deleted as the trees that were to be transplanted were not suitable for transplanting as per advice from a specialist mature tree transplanting company or have already been removed.
- 5.3.9 Condition 6.3.3.2 relating to a tree bond to be paid for the 3 trees to be transplanted to ensure their health is maintained after being transplanted
 - to be deleted as the 3 trees that were to be transplanted have already been removed.
- 5.3.10 Condition 6.4.2 relating to the required number of car parking spaces and relevant Australian Standards to be complied with
 - to be amended to reflect the reduction in total car parking spaces from 112 spaces to 103 spaces as shown on the modified basement level plans.
- 5.3.11 Condition 6.4.6 relating to the roller shutter door and card-key system to be installed to segregate the visitor spaces and residential parking spaces.
 - to be deleted as all access to basement parking will be controlled by a roller shutter and card-key system. Visitors will only be provided access to the car park at the invitation of residents.
- 5.3.12 Condition 6.8.1 (b)(iii) relating to NSW Police recommendations for the car park ceilings to be painted white to enhance lighting

- to be amended because the proposed ceiling to the car park is a pre-finished material and is not able to be painted. It will have a reflective finish that will still enhance the lighting of the car park.
- 5.3.13 Condition 7.1.3 relating to the approved stormwater engineering drawings
- to be modified to reflect the updated stormwater drawings prepared by C&M Consulting Engineers.
- 5.3.14 Condition 8.5.1 relating to the BASIX Certificate to be complied with
- to replace the superseded BASIX Certificate with the one issued for the modified plans.
- 5.3.15 Condition 14.12.1 relating to the finishes and materials approved for the building
- to be updated to reflect the amended schedule of finishes shown on the amended plans.
- 5.3.16 Condition 14.21.6 relating to the required number of car parking spaces and relevant Australian Standards to be complied with
- to be amended to reflect the amended car parking provision.
- 5.3.17 Condition 14.21.7 relating to car parking security and the roller shutter door and card-key system to be installed to segregate the visitor spaces and residential parking spaces
- to be amended as all access to basement parking will be controlled by a roller shutter and card-key system. The reference to segregated visitor and resident parking spaces is not necessary as it is not a public car park. All visitors will only be able to access the car park at the invitation of residents.
- 5.3.18 Condition 14.21.9 relating to the basement car park ceiling colour being painted white to enhance lighting
- to be amended to have a light coloured or reflective material because the proposed ceiling to the car park is a pre-finished material and is not able to be painted. It will have a reflective finish that will still enhance the lighting of the car park.
- 5.3.19 Condition 16.1.1 relating to validation that the recommendations of the acoustic report have been complied with
- to replace the references to the previous acoustic report with the one submitted to respond to the modified proposal.

6 Assessment against planning controls

- 6.1 A full assessment of the development application against relevant planning controls is provided at attachment 5, including:
- Environmental Planning and Assessment Act 1979.
 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
 - State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.
 - Blacktown Local Environmental Plan 2015.
 - Blacktown Development Control Plan 2015.

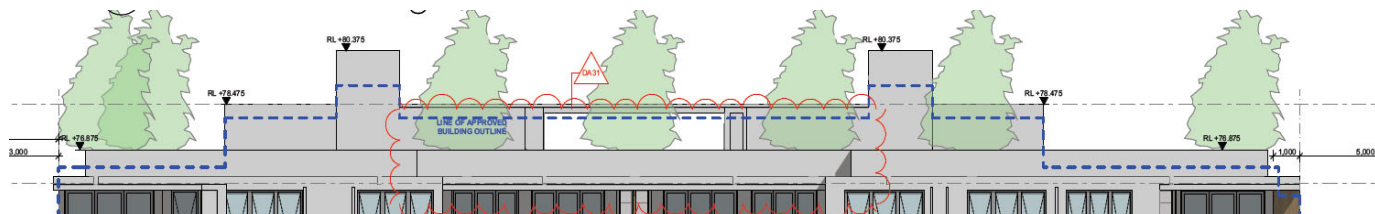
7 Issues raised by the public

- 7.1 The amended proposed development was notified to 133 property owners and occupiers in the locality between 25 August to 8 September 2022. The amended proposal was also placed on Council's website for the public to view.
- 7.2 We received no submissions.

8 Key issues

8.1 Proposed increase of the overall building height necessitating variation to the Blacktown Local Environmental Plan 2015 height requirement

- 8.1.1 Under JRPP-16-04457, the Panel approved a building height of up to 23.215 m, which exceeded the development standard by up to 3.215 m. The height was approved to cater for rooftop lift overruns and communal open space features above the 20 m maximum building height limit. The increase was supported with a Clause 4.6 variation submission made by the applicant and considered acceptable at the time by both Council and the Panel.
- 8.1.2 This proposal seeks to further increase the overall building height by 1.225 m from 22.65 m to 23.875m. The maximum building height under the Blacktown Local Environmental Plan is still 20 m. Therefore, the building height will be further varied by up to a total of 3.875 m representing an increase in the variation from 13.2% to 19.3%, or an additional 6.1% variation. The highest point of the building that will rise will be due to the 2 lift overruns whilst the remainder of the building is only increasing in height slightly by 0.6 m for the top floor (see extract below showing the increase of the building height versus the approved height indicated with blue dashed lines).



- 8.1.3 This increase in the building height is required to meet Building Code of Australia requirements to provide adequate waterproofing and to also meet the minimum floor to ceiling heights of 3.1 m within all the apartments over 6 levels. The modifications have also been made to comply with the requirements for Class 2 buildings under the Design and Building Practitioners Act 2020.
- 8.1.4 Since this is a modification application and a Clause 4.6 variation request was already approved by the Panel under JRPP-16-04457, a further Clause 4.6 variation request is not required. Notwithstanding this, the additional 1.225 m building height is considered negligible given the Panel already approved the building height at over 22 m high.
- 8.1.5 The proposed additional height will have no adverse shadow impact on neighbouring properties and will not result in any residential apartments above the height plane. On this basis this height variation is recommended to be supported.

8.2 Minor variation to the front setback controls

- 8.2.1 Under Blacktown Development Control Plan 2015, a front building setback of 9 m is required. Balconies can project into this 9 m setback by a maximum of 1 m, reducing the setback to 8 m.

- 8.2.2 Whilst the 9 m main wall building line setback to Newton Road is still maintained, the setback to the balconies along this façade will be reduced to 7.85 m from the already approved 8 m, being a reduction of 0.15 m. This reduced building setback is to achieve an increased balcony width which is required by the Apartment Design Guide to provide a minimum clear width of 1 m to the balcony. A narrower balcony would be impractical and the increase in width will improve residential amenity to these apartments.
- 8.2.3 The minor reduction to this front setback will not be visually perceptible and will not adversely reduce the quality of landscaping within the front setback. It will also not increase the bulk and scale of the building along this façade in any noticeable way. The minor 0.15 m variation to the front setback controls for the balconies only is therefore considered acceptable in this instance.

8.3 Increase of the gross floor area

- 8.3.1 The gross floor area for the entire development is proposed to increase by 238 m². On average, the increase on each level is 23 m². The largest increase is at the ground floor of 80 m². The additional gross floor area has resulted from the reduction in the number of units from 85 to 70. The reduction in the number of units provided an opportunity to increase the size of individual units to improve their overall design whilst not increasing the building footprint.
- 8.3.2 Besides the minor encroachment into the Newton Road setback discussed in 8.2 above, the other building setbacks all remain compliant.
- 8.3.3 The additional gross floor area on each floor will not increase the visible bulk and scale of the proposed building compared to the approved building. Most importantly, the increase in gross floor area is considered acceptable because no maximum floor space ratio applies to the site under Blacktown Local Environmental Plan 2015.

8.4 The proposed deletion of Panel imposed conditions 6.3.3.1 and 6.3.3.2

- 8.4.1 Conditions 6.3.3.1 and 6.3.3.2 are the only conditions specifically imposed by the Sydney Central Planning Panel in the determination and statement of reasons for JRPP-16-04457.
- Condition 6.3.3.1 relates to the transplanting of 3 significant trees (being 2 fruit trees and a Lilly Pilly) that existed on site to the deep soil zone fronting Newton Road.
 - Condition 6.3.3.2 relates to payment of a tree preservation bond for each tree that would be released after the 3 months of the building's occupation, provided that the transplanted trees were still in good health.
- 8.4.2 The applicant proposes deletion of these 2 conditions since the 3 trees have already been removed from site. The 2 fruit trees were removed during demolition of the 4 dwellings. The final tree was removed in or around October 2022. Advice from a specialist mature tree transplanting company (Alpine Treemovals) notes that this tree was too large and too old to be transplanted. The advice recommended replacing the tree with a new species. Our Open Space section was requested to assess this modification application. The above advice was reviewed and found to be acceptable in its findings. Support was given for the final tree's removal, particularly because the amended landscape plan provides for an extensive amount of additional tree plantings within the site to offset the loss of the trees.
- 8.4.3 Council's Coordinator Development Compliance had begun enforcement action against the owner for breaching these conditions by removing the trees without consent, but did not pursue it any further based on our Open Space section's

advice. Furthermore, no action can be taken for removal of the 2 fruit trees under section 9.57 (5) of the Environmental Planning and Assessment Act 1979 as the matter is statute barred. We became aware of the offence on 15 July 2019. Under that section, we have 2 years to act. The time has passed and we cannot issue a penalty notice. It is also not possible to comply with Condition 6.3.3.2 which requires payment of tree preservation bonds since transplanting of the removed trees is no longer possible.

- 8.4.4 Based on the fact that the trees could never have been successfully transplanted, deletion of conditions 6.3.3.1 and 6.3.3.2 is considered to be acceptable in this instance.

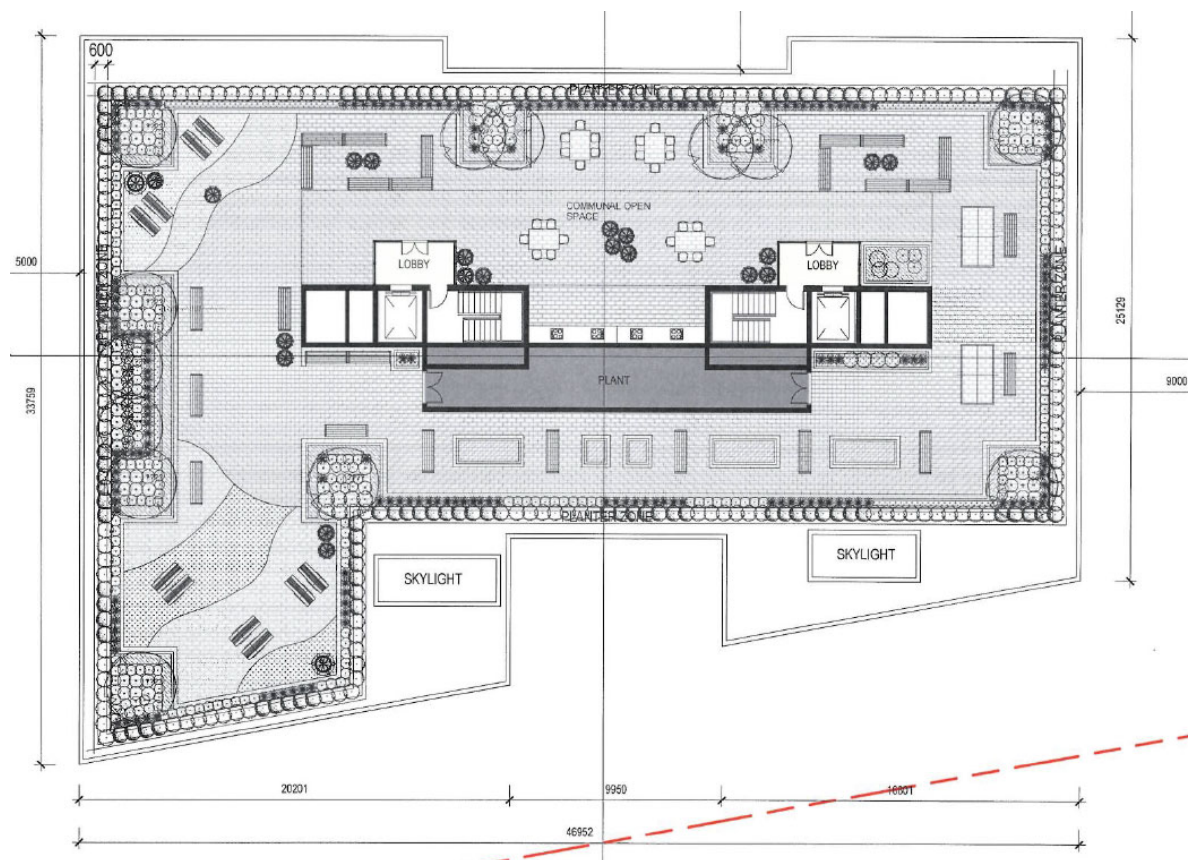
8.5 Several large storage rooms are proposed, which could be misconstrued as being habitable rooms

- 8.5.1 Storage rooms are proposed in each apartment that are in most cases large enough to accommodate a bed. These storage rooms could therefore be misconstrued as being habitable rooms. This concern was raised in 2 separate requests for information letters and the applicant was requested to amend the plans accordingly.
- 8.5.2 The applicant has elected to not amend the plans as requested. The applicant has instead justified these rooms on the basis that all the storage cages have been removed from the basement for safety reasons as they get broken into frequently. Therefore, all storage is now proposed in the apartments themselves. The Apartment Design Guide does not limit the amount of storage that is to be provided in an apartment. Storage is also required to be provided for larger and less frequently accessed items. The storage spaces have been created with shelves and spaces for bulky items. Folding doors have been used instead of standard doors to keep these storage rooms tidy. The storage rooms also have no windows.
- 8.5.3 Whilst the above response is considered reasonable, a condition is still considered necessary to be imposed to ensure that all areas nominated for use as storage rooms within the apartments are not permitted to be used as bedrooms at any times. This condition will be included in the strata management plan to ensure that it is enforced in perpetuity. This will be further regulated by requiring that all tenancy contracts include a by-law that prohibits the use of the internal unit storage spaces for habitable purposes. With the inclusion of these conditions, we consider the proposed storage rooms and their size to be acceptable in this instance.

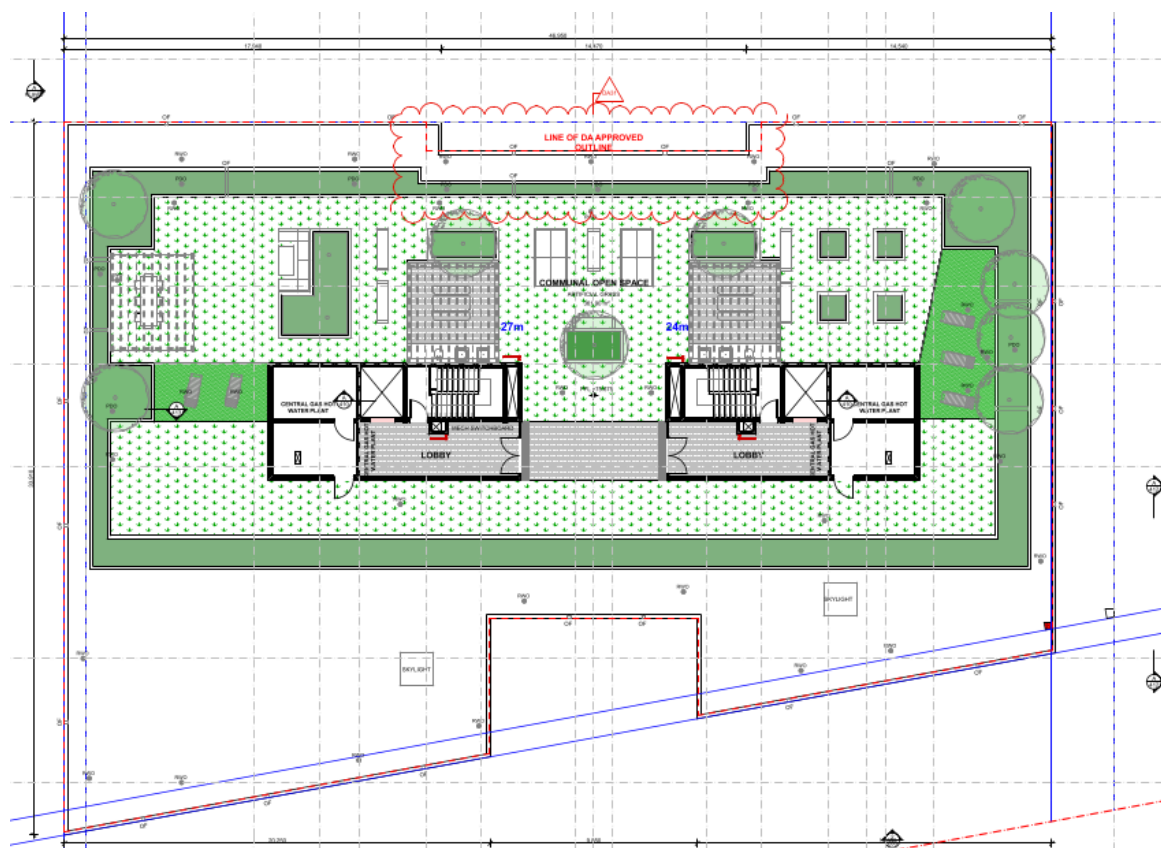
8.6 Reduction of the combined communal open space area

- 8.6.1 The combined communal open space areas are proposed to be reduced by 561.43 m² from 1,428 m² to 866.57 m² or 28.16% of the site area as illustrated below.
- 8.6.2 Part 3D of the Apartment Design Guide prescribes a communal open space area minimum of 25% of the site area. Therefore, the proposed communal open space areas of 28.16% of the site area still exceeds the minimum requirement. As such, a reduction in the combined communal open space areas is considered to be acceptable in the circumstances.

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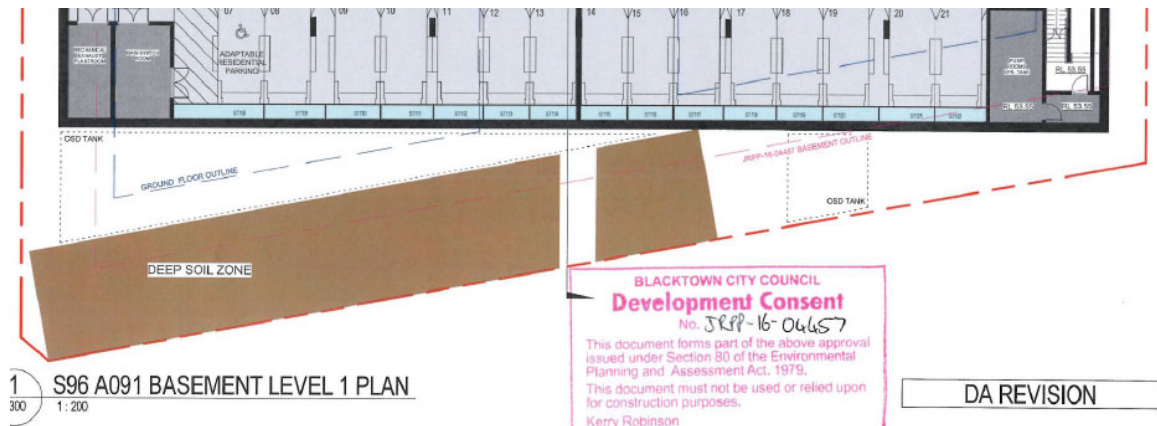
Rooftop communal open space before



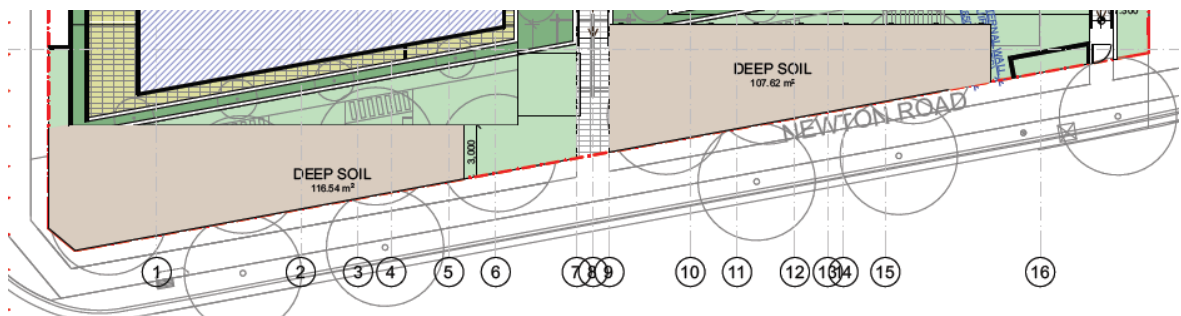
Rooftop communal open space after

8.7 Reduction of the combined deep soil zone area

8.7.1 The combined deep soil zones are proposed to be reduced by 14 m² from 238 m² to 224 m² or 7.9% of the site area as illustrated below. This is required to merge the 2 separate on-site detention tanks into 1 tank as well as to provide a location for the construction crane's base.



Deep soil zone before



Deep soil zone after

8.7.2 Part 3E of the Apartment Design Guide prescribes a deep soil zone area minimum of 7% of the site area. Therefore, the proposed reduced deep soil area, being 7.9% of the site area, still complies with the minimum requirement. As such, a reduction in the combined deep soil area is considered to be acceptable in the circumstances.

8.8 Reduction in the number of car parking spaces from 112 to 103

8.8.1 Due to the amendments proposed in the 2 basement levels, the total number of car parking spaces will reduce from 112 to 103, being a loss of 9 car parking spaces.

8.8.2 The site is located within 800 m of Blacktown Train Station and therefore benefits from a reduced parking rate under the Apartment Design Guide than would apply under the Blacktown Development Control Plan 2015. The total number of car parking spaces now required based on the amended proposal is outlined below:

Dwelling type	Number of dwellings	Apartment Design Guide parking rates	Apartment Design Guide required parking spaces
1 bedroom	7	0.6 spaces per dwelling	4.2
2-bedroom	47	0.9 spaces per dwelling	42.3
3-bedroom	16	1.4 spaces per dwelling	22.4
Visitors	-	1.0 space per 5 dwellings	14
Total	-	-	83

8.8.3 Based on these calculations, 83 parking spaces are required but this proposed reduced number of car parking spaces of 103 still exceeds the minimum required by 20. The loss of 9 parking spaces is therefore considered acceptable.

8.9 Proposed reduction in the number of apartments and amendment to the apartment mix

8.9.1 The number of apartments is proposed to reduce from 85 to 70 to improve their design and introduce 3-bedroom apartments to meet the requirements of the Apartment Design Guide. This will naturally result in a change of the apartment mix as indicated in the table below.

Apartment Type	Number of apartments in JRPP-16-04457	Number of apartments in this modification
1 bedroom / studio	39 (46%)	7 (10%)
2-bedroom	46 (54%)	47 (67.2%)
3-bedroom	0	16 (22.8%)

8.9.2 The change to the unit mix is considered to be much better since the resultant percentages of 1, 2- and 3-bedroom units is better proportioned than was originally approved.

8.10 Conditions of consent to be deleted, added or amended based on the amended proposal

8.10.1 Some conditions of consent are required to be deleted, added or amended based on our internal sections review of the amended proposal. These conditions have not been proposed by the applicant to require amendment. The relevant conditions are as follows:

- Conditions 5.3 and 5.3.1 requiring the submission of an amended street tree plan can be deleted. A street tree plan has been submitted with the amended proposal that has been approved by our Open Space Maintenance section. Conditions 14.5.1 to 14.5.4 are required to be added to ensure the street tree planting is undertaken in line with the street tree plan and tree bonds paid to ensure the health and vigour of the trees.
- Our Waste section requires multiple conditions to be added or amended to be brought up to date with its current suite of conditions for residential flat buildings, namely:
 - 12.6.2 and 12.6.3 be added which relate to management of waste during construction.

- 14.7.1 and 14.7.2 be amended and 14.7.3 and 14.7.4 be added relating to waste management matters to be addressed Prior to issue of the Occupation Certificate.
- 15.6.2, 15.6.3 be amended and 15.6.4 and 15.6.5 be added relating to operational waste management.

9 External referrals

- 9.1 The modification application did not require referral to any external authorities for comment.

10 Internal referrals

- 10.1 The development application was referred to the following internal sections of Council for comment:

Section	Comments
Building	No objections. No changes to conditions required
Engineering	Acceptable subject to conditions
Environmental Health	Acceptable subject to conditions
City Architect	No objections. All previous issues have been satisfactorily addressed
Open Space	Acceptable subject to conditions. The 3 removed trees could not have been transplanted. The landscape plans provide for an extensive amount of tree plantings within the site to offset the loss of these trees.
Waste	Acceptable subject to conditions
S7.11 Contributions	Acceptable subject to conditions

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.

12 Disclosure of political donations and gifts

- 12.1 Under Section 10.4 of the Environmental Planning and Assessment Act 1979, a disclosure statement must be lodged in certain circumstances in relation to any planning application, i.e. a development application, an application to modify a consent and an application to make an environmental planning instrument or development control plan.
- 12.2 A disclosure statement of a reportable political donation or gift must accompany a planning application or submission (including a submission either objecting to or supporting the proposed development) if the donation or gift is made within 2 years before the application or submission is made. If the donation or gift is made after the lodgement of the application, a disclosure statement must be sent to Council within 7 days after the donation or gift is made. The provision also applies to an associate of a submitter.

12.3 A disclosure statement may be made available for viewing upon a written request to Council in line with Section 12 of the Local Government Act 1993.

12.4 Disclosures:

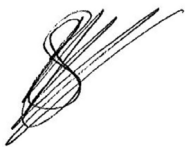
Political donations	Has a Disclosure statement been received in relation to this application?	No
Gifts	Have staff received a 'gift', that needs to be disclosed, from anyone involved with this application?	No

13 Recommendation

- 1 Approve MOD-21-00316 for the reasons listed below and subject to the conditions listed at attachment 6:
 - a The proposed modifications will have minimal environmental impact and will serve the same purpose as the development as it was originally approved. The resultant proposal will be a safer development that complies with the Building Code of Australia (Section 4.15(b) of the Environmental Planning and Assessment Act 1979).
 - b The site remains suitable for the development. (Section 4.15(c) of the Environmental Planning and Assessment Act 1979).
 - c The development is considered to be substantially the same development as approved, with the minor increase in height not being noticeable. Therefore, the development is in line with Section 4.55(2) of the Environmental Planning and Assessment Act 1979.
- 2 Council officers notify the applicant of the Panel's decision.

14 Declaration and endorsement

We, the undersigned, declare, to the best of our knowledge that we have no interest, pecuniary or otherwise, in this development application or persons associated with it; and we have provided an impartial assessment.



Jared Spies
Senior Development Assessment Planner



Judith Portelli
Manager Development Assessment



Peter Conroy
Director City Planning and Development