

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

### 1 Environmental Planning and Assessment Act 1979

#### 1.1 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
a. The provisions of:		
i. Any environmental planning instrument	The proposal complies with Blacktown Local Environmental Plan 2015 except for the additional 6.1% variation to the 20 m height plane already varied in the parent JRPP-16-04457 by 13.2%. The overall variation will now be a total of 19.3%.	No, but considered acceptable in this instance. Refer to Section 8 of the main report for assessment.
ii. Any proposed instrument that is or has been the subject of public consultation under this Act	N/A	N/A
iii. Any development control plan	Blacktown DCP 2015 applies to the site. The proposed development maintains compliance with the numerical controls established under the DCP apart from the minor 150 mm encroachment of the balconies into the previously approved 8 m front setback to balconies adjacent Newton Road.	No, but considered acceptable in this instance. Refer to Section 8 of the main report for assessment.
iv. a) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,	N/A	N/A
the regulations (to the extent that they prescribe matters for the purposes of this paragraph).	The proposal is consistent with the regulations.	Yes
b. The likely impacts of the development, including environmental impacts on both the	This modification enables the building to meet Building Code of Australia requirements, provide adequate waterproofing and meet minimum floor to ceiling heights of 3.1 m within apartments. The modifications will also enable the building to comply with the requirements for Class 2 buildings under the	Yes

Heads of Consideration	Comment	Complies
natural and built environments, and social and economic impacts on the locality	Design and Building Practitioners Act 2020. The modification does not increase the dwelling yield of the building and the increased height will have a negligible impact on neighbouring properties.	
c. The suitability of the site for the development	The subject site is zoned R4 High Density Residential under the Blacktown Local Environmental Plan 2015. Residential flat buildings are permissible on the site with development consent. Therefore, the site remains suitable for the development.	Yes
d. Any submissions made in accordance with this Act, or the regulations	The proposed development was notified to 133 property owners and occupiers in the locality between 25 August to 8 September 2022. The proposal was also placed on Council's website for the public to view. We received no submissions.	Yes
e. The public interest	It is considered that no adverse matters relating to the public interest arise from the proposal. The modification is in the public interest as it will enable the building to meet the requirements of the Building Code of Australia and Design and Building Practitioners Act 2020.	Yes

## 1.2 Section 4.55(2) considerations for modification applications

Consideration	Comment
The proposed development is considered under section 4.55(2) of the Act. Under this provision, the consent authority may modify the consent if:	
<ul style="list-style-type: none"> <li>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)</li> </ul>	<p>The original development was approved as a residential flat building and the proposed development is still a residential flat building.</p> <p>In the proposed modifications, the applicant seeks to increase the height of the building by 1.225 m to enable it to meet Building Code of Australia requirements, provide adequate waterproofing and meet minimum floor to ceiling heights of 3.1 m within apartments.</p> <p>The modifications will also enable the building to comply with the requirements for Class 2 buildings under the Design and Building Practitioners Act 2020.</p> <p>Other internal and external amendments are proposed as outlined in the main report, but those changes are considered to be minor. There is also no additional yield of units proposed. The development is therefore considered to be substantially the same development.</p>
<ul style="list-style-type: none"> <li>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 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,</li> </ul>	Not applicable

Consideration	Comment
within 21 days after being consulted, objected to the modification of that consent	
<ul style="list-style-type: none"> <li>it has notified the application in accordance with: <ul style="list-style-type: none"> <li>the regulations, if the regulations so require, or</li> <li>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</li> </ul> </li> </ul>	The proposed modifications were notified to 133 property owners and occupiers in the locality between 25 August to 8 September 2022. No submissions were received.
<ul style="list-style-type: none"> <li>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.</li> </ul>	Not applicable as no submissions were made.

## 2 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 with the relevant sustainability targets and will implement those measures required by the certificate. This will be conditioned in any consent granted.</p>	Yes

## 3 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

Summary comment
<p>State Environmental Planning Policy 65 applies to the assessment of development applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.</p> <p>Clause 30 of State Environmental Planning Policy 65 requires a consent authority to take into consideration:</p> <ul style="list-style-type: none"> <li>advice (if any) obtained from the design review panel,</li> <li>design quality of the residential flat development when evaluated in accordance with the design quality principles,</li> <li>the Apartment Design Guide.</li> </ul> <p>We do not have a design review panel.</p> <p>The 9 design quality principles of the Apartment Design Guide are still considered to be satisfied. The proposed amendments to the architectural design, materials, finishes and internal layouts are considered to be satisfactory as confirmed by City Architect.</p> <p>The amendments proposed also continue to maintain compliance with the key requirements in terms of cross ventilation, deep soil zone, solar access, common and private open space and apartment mix provisions.</p>

## 4 Blacktown Local Environmental Plan 2015

Summary comment	Complies
Blacktown Local Environmental Plan 2015 applies to the site with regards Clause 4.3 Height of buildings standard. The maximum building height under the Blacktown Local Environmental Plan 2015 is 20 m. The building height is proposed to be further varied by up to 1.225 m (a total of 3.875 m), or an increase to the variation from 13.2% to 19.3%.	No, but considered satisfactory. Refer to Section 8.1 of the main report for assessment.

## 5 Blacktown Development Control Plan 2015

Summary comment	Complies
Blacktown Development Control Plan 2015 applies to the site. The proposal continues to be compliant with all matters under Blacktown Development Control Plan 2015 apart from those listed below.	Yes

### Part C – Development in the residential areas

DCP requirement	Proposal	Complies	
Section 6: Residential flat buildings			
6.6 front setback	<p>9 m front setback for 3 or more storey buildings</p> <p>Balconies may project into the front setback by a maximum of 1m.</p>	<p>Front building setback remains at 9m as approved. Side and rear setbacks also remain as approved.</p> <p>Setback to balconies reduces from 8 m to 7.85 m being a variation of 0.15 m. Refer to Section 8.2 of the main report for assessment.</p>	<p>Yes.</p> <p>No, but the minor variation is considered acceptable in this instance.</p>