

RECORD OF DELEGATION

SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF PANEL DECISION	17 November 2023
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Steve Murray, Chris Quilkey, Moninder Singh
APOLOGIES	None
DECLARATIONS OF INTEREST	None

DELEGATION REQUEST – DETERMINATION OF 4.55(2) MODIFICATION APPLICATION PPSSCC-504

Modification Application

PPSSCC-504 – Blacktown – MOD-23-00462 – 38 Cudgegong Road, Rouse Hill - Modification application to JRPP-15-02107 under section 4.55 (2) of the Environmental Planning and Assessment Act 1979 including but not limited to the addition of a second lift in buildings A,B & C, addition of service shafts to buildings A to D, internal layout changes to 24 units in building A located on ground to Level 7, internal layout changes to 7 units over Levels 1-7 of building C, increase in floor to floor height of Buildings A-D, external circular columns added to balcony corners of buildings A to D, modifications to roof terraces building outline of buildings, A to D, new awning on Level 1 of Building D.

BACKGROUND

The NSW Government made changes to the way independent planning panels work to improve efficiency and to improve determination times for development assessments. The changes, which commenced on 1 August 2020, indicate that a council is not to determine an application under section 4.55(2) of the Act to modify a development consent granted by a regional panel if the application:

- proposes amendments to a condition of development consent recommended in the council assessment report but which was amended by the panel, or
- proposes amendments to a condition of development consent that was not included in the council assessment report, but which was added by the panel, or
- meets the criteria relating to conflict of interest, contentious development or departure from development standards (see Attachment 1, Schedule 1).

Clause 123BA of the Regulation requires councils to determine all other applications for the modification of development consents under section 4.55(2) of the Act, as well as applications for the modification of development consents under section 4.55(1) and section 4.55(1A) of the Act.

The Minister for Planning and Public Spaces has provided approval under section 2.16(6) of the Environmental Planning and Assessment Act 1979 (EP&A Act) for any Sydney district or regional planning panel to delegate any of its functions under the EP&A Act or any other Act (other than the power of delegation) to the general manager or other staff of a council, for any area or part of any area for which the Sydney district or regional planning panel is constituted.

With respect to PPSSCC-504 (MOD-23-00462), the panel have been advised by Council:

This modification application has been referred to Sydney Central City Planning Panel due to the applicant's proposed departure to the building height control under State Environmental Planning Policy (Precincts-Central River City) 2021 by more than 10%.

Background:

1. JRPP-15-02107 was approved by Sydney Planning Panel on 16 March 2018 for construction of 4 x 8 storey residential flat buildings comprising 295 apartments and 394 car parking spaces (including 348 spaces over 2 basement levels and 46 spaces at ground level). The DA complied with the maximum building height of 26m and there was no breach in height.
2. MOD-19-00474 was lodged under S4.55 (1A) and approved on 07 October 2020 under delegated authority to create roof terraces on buildings A-D, lift structures, stairwell structures, pergola structures, landscaping planter boxes, seating area and landscaping.

Proposed variation details:

Building	Approved height under MOD-19-00474	Approved variation m-% under MOD-19-00474	Proposed MOD height	Proposed MOD variation m-%
Building A	29.105 m	3.105 m (11.9%)	30.2 m	4.2 m (16.2%)
Building B	29.9 m	3.99 m (15.3%)	30.6 m	4.6 m (17.6%)
Building C	29.6 m	3.6 m (13.8%)	30.8 m	4.8 m (18.4%)
Building D	29.4 m	3.4 m (13%)	30.7 m	4.7 m (18%)

The variation is the result of the following:

1. Increasing the floor to floor heights of all buildings to comply with the BCA requirements to fit the sprinkler and service systems within the service cavity space.
2. Adding a second lift to improve the amenity of the building for the residents
3. Adding a second fire exit and access to the roof terraces to achieve BCA compliance and satisfy the requirements of applicant's Fire Engineer.

The increase in floor to floor heights of all buildings has also resulted in some small portions of habitable areas of all buildings being above the permissible height control of 26m as detailed below:

Building A: approximately 0.5 m encroachment (1.9%) on the east and southern elevations. However, Building A is offset by approximately 1.9 m (7.3%) which will be below the 26 m building height of the entire building on the north elevation and between 1.3 m-1.4 m (5.3% to 5%) on part of west elevation and 0.8m (3%) on part of the east elevation.

Building B: approximately 0.7 m encroachment (2.7%) on east and southern elevations. However, Building B is offset by a maximum of 1.2 m (4.6%) which will be below the 26 m building height on part of north and west elevations.

Building C: approximately 0.8 m encroachment (3%) on the east elevation and 0.5 m encroachment (1.9%) on the southern elevation. However, Building C is offset by a maximum of 1.4 m (5.3%) which will be below the 26 m building height on part of the northern elevation and 0.9 m (3.4%) on part of the western elevation.

Building D: approximately 0.4 m encroachment (1.5%) on the north elevation, 0.5 m encroachment (1.9%) on the east elevation and 0.8 m encroachment (3%) on the south elevation. However, Building D is offset by a maximum 0.9 m (3.4%) which will be below the 26 m building height on part of the north elevation and 0.7 m (2.7%) below the height plane on part of the west elevation.





Given the proposed offsets of all the buildings below the height plane is greater than the proposed encroachment over the height plane of the habitable space, the proposed minor variations in height encroachments of the habitable space is considered acceptable in this instance.

PANEL RESOLUTION

This is a resolution of the Panel made on 17 November 2023 in accordance with Schedule 2 Part 5 of the EP&A Act.

That pursuant to section 2.16(6)(c) of the EP&A Act 1979 the Panel resolves to delegate to Blacktown City Council the power to make a determination as consent authority under section 4.55(2) of the EP&A Act on:

MOD-23-00462 – 38 Cudgegong Road, Rouse Hill - Modification application to JRPP-15-02107 under section 4.55 (2) of the Environmental Planning and Assessment Act 1979 including but not limited to the addition of a second lift in buildings A,B & C, addition of service shafts to buildings A to D, internal layout changes to 24 units in building A located on ground to Level 7, internal layout changes to 7 units over Levels 1-7 of building C, increase in floor to floor height of Buildings A-D, external circular columns added to balcony corners of buildings A to D, modifications to roof terraces building outline of buildings, A to D, new awning on Level 1 of Building D.

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