

Item 4.**Section 4.55(2) Application: 338 Botany Road, Alexandria - D/2019/87/C**

File No.: D/2019/87/C

Summary

Date of Submission:	15 April 2024
Amended plans/ Additional Information:	Amended plans and additional information were submitted on 25 September 2024
Applicant/ Developer:	St George Community Housing Portfolio Limited
Architect:	DKO
Owner:	The Council of the City of Sydney
Planning Consultant:	Keylan
Design Advisory Panel:	13 June 2024
Cost of Works:	\$72,339,256
Zoning:	The site is zoned E3 Productivity Support. The proposal is permissible in accordance with Clause 7.13A of the Sydney LEP 2012.
Proposal Summary:	<p>This Section 4.55(2) modification application seeks to modify the concept mixed use building envelope incorporating commercial uses and residential uses for the purposes of affordable housing. The application also seeks to amend Condition 2 (Approved Development), Condition 8 (Detailed Design of Buildings), Condition 13 (Floor Space Ratio) and Condition 14 (Building Height).</p> <p>The modifications principally involve altering the approved building envelope to align with the detailed design development application (D/2024/273) that is concurrently reported to the CSPC and is recommended for approval.</p>

The proposed modifications to Concept Approval D/2019/87 include:

- departure to the building envelope on the western elevation (a) at ground level to facilitate accessible car parking spaces and loading dock, reducing the western setback at ground level from 4.5m to 0m and (b) at Levels 8 and 9 partly reducing the setback from 9m to 7.967m.,
- alterations to the building height, with a maximum exceedance beyond the building envelope height of 33m by 3.2m resulting in a maximum height of 36.2m,
- increase in the permissible FSR to allow for a maximum FSR of 4.09:1 where 4:1 currently applies due to the inclusion of the area of the east facing balconies given the increased wall height proposed to provide for noise attenuation, and
- changes to facilitate blade wall encroachments within footpath areas above ground level.

The application has been assessed by an independent external planning consultant (as the City of Sydney is the landowner) to address any perceived conflicts of interest and in accordance with the City's protocol for the external assessment of Development Applications.

The independent assessment report is provided at Attachment A.

Both the concept modification and the detailed design development application are referred to the CSPC for determination as the cost of works of D/2024/273 exceeds \$50 million.

The assessment of the application by the independent planner concludes that as amended and subject to conditions, the proposal is substantially the same as previously approved and contextually appropriate and is recommended for approval.

Summary Recommendation: It is recommended that the assessment report prepared by the independent external planning consultant, shown at Attachment A and recommended conditions shown at Attachment B to the subject report, be considered for approval by the Central Sydney Planning Committee.

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Housing) 2021
- (v) SEPP (Sustainable Buildings) 2022
- (vi) SEPP (Transport and Infrastructure) 2021

Attachments:

- A. Independent Assessment Report
- B. Recommended Conditions of Consent
- C. Selected Drawings

Recommendation

It is resolved that consent be granted to Section 4.55(2) Application Number D/2019/87/C subject to the amendment of the following conditions (with modifications shown in bold italics (additions) and strikethrough (deletions) as follows:

(2) APPROVED STAGE 1 DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2019/87 dated 12 December 2017 and the following drawings prepared by DKO Architecture (NSW) Pty Ltd:

Drawing Number	Drawing Name	Date
Stage 1 Envelope Envelope Plan	Project Number 11942 Page 37 DA100 C	16.10.2019 24/09/2024
Stage 1 Envelope Envelope Plan	Project Number 11942 Page 38 DA101 B	16.10.2019 24/09/2024
Envelope Plan - Overall	Project Number 11942 DA102 B	24/09/2024
Stage 1 Envelope Stage 1 Envelope Elevations	Project Number 11942 Page 39 DA200 B	16.10.2019 24/09/2024
Stage 1 Envelope Stage 1 Envelope Elevations	Project Number 11942 Page 40 DA201 B	16.10.2019 24/09/2024

as amended by plans other conditions of this consent.

(b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Condition amended via Section 4.55(2) on 14 November 2024

(8) DETAILED DESIGN OF BUILDINGS

The competitive design process brief and subsequent detailed design development application must incorporate the following requirements:

- a) Minimise overshadowing on adjoining properties in accordance with ADG objective 3B-2.
- ~~b) Ensure no overshadowing of approved residential apartments at 499 and 501 – 509 Botany Road, Alexandria~~
- c) Provide a compliant amount of communal open space in accordance with the ADG that receives adequate solar in accordance with the ADG.
- d) If roof top communal open space is proposed it must provide equitable access, be designed to prevent overlooking and noise impacts ~~and all structures (including but not limited to plant and lift overruns) must be within the 33m height limit.~~
- e) Acoustic and ventilation treatments to the east and northern frontages in accordance with the requirements of the Sydney DCP and ADG.
- f) Waste management facilities in accordance with Section 4.2.6 of the Sydney DCP 2012.
- g) An awning is to be provided over any building entries on Botany Road in accordance with Section 3.2.4 of the Sydney DCP 2012.

Condition amended via Section 4.55(2) on 14 November 2024

(13) FLOOR SPACE RATIO

The Floor Space Ratio for all detailed development applications on the site must not exceed 4.09:1 calculated in accordance with Clauses 4.4 and 6.14 of the Sydney Local Environmental Plan 2012.

~~Notwithstanding (a) above, the proposal may be eligible for up to 10% additional floor space pursuant to the provisions of Clause 6.21(7) of the Sydney Local Environmental Plan 2012 if the consent authority is satisfied that the resulting detailed design development application exhibits design excellence and is the result of a competitive design process in accordance with the requirements of the Sydney Local Environmental Plan 2012.~~

Precise calculations and details of the distribution of floor space must be provided with any subsequent detailed design development application or applications.

Condition amended via Section 4.55(2) on 14 November 2024

(14) BUILDING HEIGHT

The maximum height of the buildings must not exceed ~~33~~ **36.2** metres in accordance with the Sydney LEP 2012 **as provided for under D/2024/273**. No structures are to exceed the ~~33~~ **36.2** metres height limit.

Condition amended via Section 4.55(2) on 14 November 2024

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development as modified is substantially the same as was originally approved and is consistent with the requirements of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979.
- (B) The development has been considered against the reasons given by the Central Sydney Planning Committee for the grant of consent that is to be modified, and the proposal is consistent and acceptable, as per Section 4.55(3) of the Environmental Planning and Assessment Act, 1979.
- (C) The proposed modifications ensure that the detailed design development application is consistent with the concept approval to satisfy Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (D) The changes to the building envelope are in keeping with the desired future character of the area and will not adversely impact the amenity of the surrounding area. These variations are reasonable and justified with regard to the detailed design development application D/2024/273.
- (E) The proposed building envelope is capable of accommodating a future building design which is capable of exhibiting design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012.

GRAHAM JAHN AM

Chief Planner / Executive Director City Planning, Development and Transport

Matthew Girvan, Area Planning Coordinator