

Section 75W Modification (MP 07_0106) Concept Plan Modification



Clemton Park Village

Concept Plan Modification

Submitted to Department of Planning and Infrastructure
On Behalf of Australand Holdings Pty Ltd

Volume 1 of 1

28 August 2012 ■ 12338

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This report has been prepared by:

A handwritten signature in black ink, appearing to read 'Ballango', with a stylized flourish at the end.

Stephanie Ballango

Date 28/08/2012

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Executive Summary

The purpose of this report is to request the Minister for Planning and Infrastructure (or his delegate) to modify the Clemtown Park Village Concept Plan approval under section 75W and Clause 3C of Schedule 6A of the *Environmental Planning and Assessment Act, 1979* (EP&A Act). It seeks to modify this approval by amending the maximum permissible height (i.e.: number of storeys) on Proposed Lot 41 and updating and reconciling the Further Environmental Assessment Requirements and approved Final Statement of Commitments.

The Clemtown Park Village project, formerly referred to as the Sunbeam Factory site, was granted Concept Plan approval on 4 February 2010 for 76,128m² of mixed uses over five development blocks. Conditions of approval imposed on the Concept Plan approval further articulate the design intent that future development applications must address, including built form controls for individual development blocks across the site.

The detailed design for Proposed Lot 41, being Stage 4 of the Clemtown Park Village project is currently underway, with Australand intending to submit a development application (DA) to Canterbury City Council in the near future. The current planning for Proposed Lot 41 indicates that the slope of Proposed Lot 41 impacts upon achieving optimum high quality design and street address under the currently applicable maximum height controls imposed by the Concept Plan approval. The proposed modification therefore seeks to increase the number of storeys permitted on the site, but does not seek additional height in terms of the RL at the uppermost levels of the future buildings. Rather the increase in storeys sought solely relates to the parts of the lower levels of the future buildings to account for the slope of the site.

This report demonstrates that in this instance numerical compliance with the currently approved building heights does not deliver good design. A marginal increase in building height along limited portions of the site and an innovative architectural response delivers a superior design outcome that satisfies other key aspects of the Clemtown Park Village Concept Plan approval, including:

- provision of equitable and level public open space;
- screening of an otherwise potential unsightly basement structure that is required to protrude out of the ground due to the significant level change across the site, thereby enhancing the development's relationship to existing and proposed public domain and adjoining development;
- the creation of opportunities to address and activate the street frontages;
- stronger compliance with key SEPP 65 and Residential Flat Design Code principles; and
- facilitation of future efficient apartment layouts.

The modification also seeks to amend the Further Assessment Requirement No. 13 which relates to open space within Proposed Lots 41 and 42 to clarify that Rights of Way and Easement for public access should only be provided where relevant.

Further, the modification seeks to update and reconcile the approved Final Statement of Commitments to reflect the currently approved documentation. It also seeks to tailor the Statement of Commitments to the Concept Plan approval rather than the Project Application approval, as works do not form part of the Concept Plan approval. The proposed scope of amendments is considered minor and will provide greater flexibility to ensure that technological advancements,

innovative design, and alternative solutions can be readily explored without necessitating the need for subsequent modifications.

1.0 Introduction

This Section 75W Modification has been prepared to modify the approved Concept Plan for the former Sunbeam Factory site, now known as Clemton Park Village. It is submitted to the Minister for Planning and Infrastructure (or his delegate) pursuant to section 75W and Clause 3C of Schedule 6 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), on behalf of Australand Holdings Pty Ltd (Australand).

Australand is seeking increase the overall maximum building height permitted on Proposed Lot 41 by one additional storey. In doing so, an amendment is also sought to revise the built form controls established by the Concept Plan approval which identify a range of maximum building heights on Proposed Lot 41. The approved Final Statement of Commitments is also proposed to be updated and reconciled to reflect the currently approved documentation and amendments proposed by this section 75W Modification, as well as the more closely align with the overall progress and direction of the Clemton Park Village project.

This report has been prepared by JBA Urban Planning Consultants Pty Ltd, for Australand, and is based on plans and drawings provided by Kann Finch (**Appendix A**). It describes the proposed Concept Plan modification and includes an assessment of the proposal against the relevant considerations of the EP&A Act. It should be read in conjunction with the Concept Plan Instrument of Approval (06_0107) (as modified).

1.1 Background

1.1.1 Approved Concept Plan

The Clemton Park Village Concept Plan (as modified) was approved by the (former) Minister for Planning on 4 February 2010. It provides for a mixed use development including:

- multiple unit residential development, seniors living including independent living units (ILUs) and a residential aged care facility (RACF);
- use for commercial offices, specialty retail, convenience retail, supermarket, medical centre, and a child care centre;
- publicly accessible open space for a minimum 4,850m²;
- Building envelopes for 3 buildings on proposed Lot 21, with a height of 3 storeys;
- indicative building envelopes for 2 buildings on proposed Lot 31, with heights from 4 to 6 storeys;
- building envelopes for 4 buildings on Proposed Lot 41, with heights from 5 to 6 storeys;
- building envelopes for a podium level and 4 buildings above podium on proposed Lot 42, with total heights from 4 to 6 storeys;
- demolition of existing buildings/structures on site and remediation of site;
- subdivision, road layout, services, and landscaping;
- total floor space of 76, 128m²; and
- residential display suites.

The detailed design of each development block is subject to obtaining development consent under Part 4 of the EP&A Act, consistent with the terms of the Concept Plan approval. Condition No. A1(b) of the Concept Plan approval

specifically identifies that building envelopes have not been approved for Lots 1 and 2, (now and herein referred to as Proposed Lot 41 and Lot 42 respectively). Rather, the approval is limited to the "*use of that land for mixed uses, subdivision, demolition and remediation of land only*". Condition A4 specifies the maximum building heights for each development block across the site including Proposed Lot 41. Condition A6 identifies the built form controls including height range required to be demonstrated by detailed development applications for Lots 41 and 42.

Schedule 3 of the Concept Plan identifies the Further Environmental Requirements that apply to future applications within the Clemton Park Village site. The Requirements address a range of matters including building separation, privacy, car share requirements and also identify the documentation and matters that may need to be addressed by future applications. Further Environmental Requirement No. 13 relates to Open Space and provides:

(a) Any future application for development on proposed Lot 41 or proposed Lot 42 shall demonstrate that open space areas are clearly accessible and corresponds (in grade) to the surrounding public domain.

(b) Details are to be provided with the future applications demonstrating that open space areas will be publicly accessible by way of Right of Ways and Easements on title.

In addition to the conditions of approval and Further Assessment Requirements, the Final Statement of Commitments approved under the original Concept Plan identify a series of criteria that future development applications are required to address, including:

- heritage;
- transport and traffic;
- noise impacts;
- flooding;
- environmental sustainability;
- contamination;
- waste management;
- infrastructure;
- landscaping;
- construction; and
- subdivision.

The originally approved Concept Plan has been modified twice and the approved plans and Final Statement of Commitments have been revised accordingly. Modification No. 1 was approved on 15 December 2011 and corrected a number of minor typographical errors, introduced greater flexibility related to the design of building envelopes, and revised the maximum floor space and building height permitted on Proposed Lot 11. On 1 June 2012, the Minister for Planning and Infrastructure's delegate approved Modification No. 2 to the Concept Plan. Modification 2 reflected Australand's intention to construct three buildings on Lot 21 rather than the six buildings initially approved under the Concept Plan.

It should also be noted that since approval of the Concept Plan, Canterbury City Council has approved a street naming strategy for the entire Clemton Park Village site. Accordingly, the street names referenced in the Concept Plan Instrument of Approval and Final Statement of Commitments has been superseded. **Figures 1 and 2** show the originally approved and current street names bounding the

Proposed Lot 41 site that is the subject of this report. The new street names for Proposed Lot 41 are now known as Sunbeam Street to the north (formerly known as New Troy Street), Victa Street (east) (formerly known as New Wade Street), Tedbury Street (south) (formerly known as New Harp Street) and Mackinder Street (west) (formerly known as New Alfred Street). As outlined in Section 2.1, Condition A6 is also proposed to be modified as it applies to Proposed Lot 41 to reference the Council approved street naming strategy.

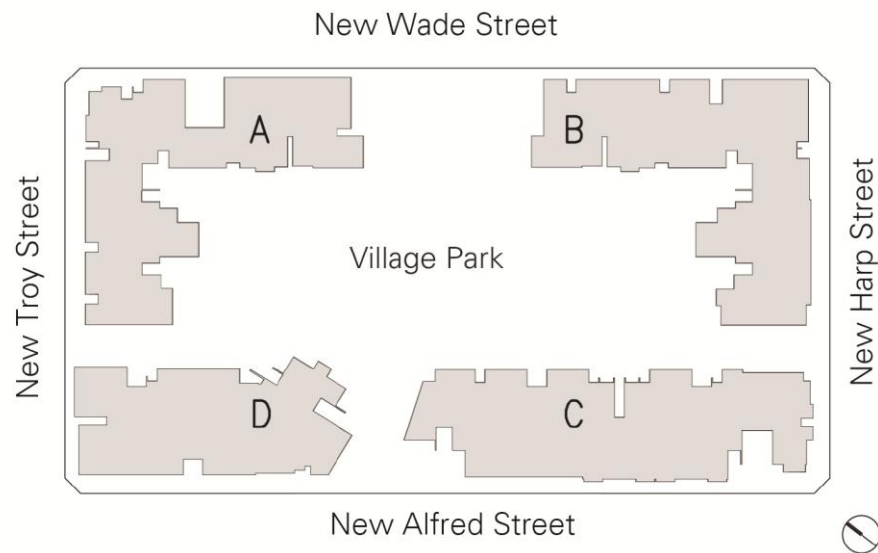


Figure 1 – Street Naming Strategy for Proposed Lot 41 as per Concept Plan Approval

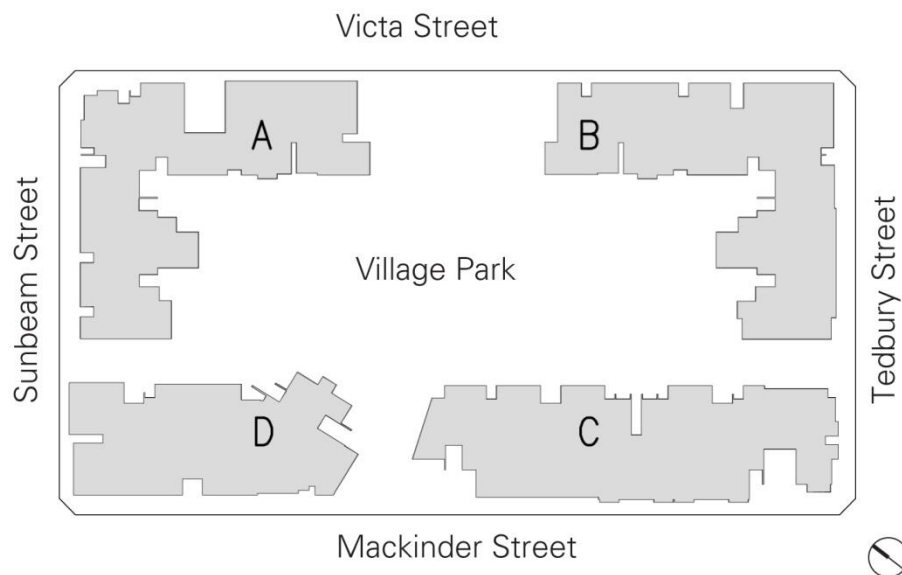


Figure 2 – Revised Street Naming Strategy for Proposed Lot 41 as approved by Canterbury City Council

1.2 Project Application and Development Applications

A Stage 1 Project Application was concurrently approved with the Concept Plan for the demolition of the former site buildings and structures and construction of a new residential building and a child care centre on Lot 11 (MP 08_0087). The

demolition works have been completed and the site has now been remediated. Construction of the new residential building and child care centre is underway.

A Development Application for Stage 2 was approved by Canterbury City Council on 16 August 2012.

On 1 July 2012, Australand submitted a Section 75W Modification to amend MP 08_0087 which seeks revisions to conditions of approval relating to detailed subdivision design and road infrastructure provision. That Section 75W Modification is currently under assessment by the Department of Planning and Infrastructure.

Australand is now progressing preparation of a development application for Proposed Lot 41, being Stage 4 of the Clemton Park Village Project. It has become apparent during the detailed design process for Proposed Lot 41 that some variations to building heights are required for parts of the site. Minor components of the proposed buildings will need to exceed the maximum height controls due to the site's undulating topography. This Section 75W Modification therefore seeks to revise the height controls to provide for the orderly development of Proposed Lot 41. As outlined above, this Modification also seeks approval to update the approved Final Statement of Commitments and is described in further detail in Section 3.2.

2.0 Description of Proposed Modifications

The proposed modifications to the Concept Plan approval (as modified) are outlined below. This section 75W modification seeks to:

- increase the maximum building height on Proposed Lot 41 and consequently reconcile the relevant conditions of the Concept Plan approval to permit:
 - a maximum of 7 storeys for development fronting New Alfred Street;
 - a maximum of 6 storeys for the remainder of the site;
- amend Further Assessment Requirement No. 13(b) to explicitly articulate that Rights of Way and Easements should only be created where required; and
- streamline and update the approved Final Statement of Commitments for the Concept Plan approval.

2.1 Proposed Modifications to the Approval

Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

Schedule 1 - Part A, Table

Mixed use redevelopment of the former Sunbeam Factory including:

- *multiple unit residential development, seniors living including independent living units (ILUs) and a residential aged care facility (RACF);*
- *use for commercial offices, specialty retail, convenience retail, supermarket, medical centre, and a child care centre.*
- *Publicly accessible open space for a minimum 4850m²;*
- *Building envelopes for 3 buildings on proposed Lot 21, with a height of 3 storeys;*
- *Indicative building envelopes for 2 buildings on proposed Lot 31, with heights from 4 to 6 storeys;*
- *Building envelopes for 4 buildings on proposed Lot 41, with heights from ~~5~~ 6 to ~~6~~ 7 storeys;*
- *Building envelopes for a podium level and 4 buildings above podium on proposed Lot 42, with total heights from 4 to 6 storeys;*
- *Demolition of existing buildings/structures on site and remediation of site;.*
- *Subdivision, road layout, services, and landscaping;*
- *Total floor space of 76,128m²; and*
- *Residential display suites.*

Reason for Modification: An increase in the maximum number of storeys is proposed on Proposed Lot 41 as discussed in detail below. If approved, the development description provided within the Instrument of Approval will need to be updated in accordance with the marked up changes above.

A 1. Development in Accordance with Plans and Documentation

*(a) The approval shall, subject to A1(b) below, be generally in accordance with MP 07_0106 and with the Environmental Assessment, except where amended by the Preferred Project Report and additional information to the Preferred Project Report, the section 75W Modification by Worley Parsons, dated 1 February 2011, the section 75W Modification by Australand, dated 27 March 2012, **the section 75W***

Modification by JBA, dated 28 August 2012 and the following drawings prepared by Kann Finch:

Concept Plan Drawings Prepared by Kann Finch:			
Drawing No.	Revision	Name of Plan	Date
DA 1.01	D F	Concept Scheme Only Cover Sheet	12.03.12 01.08.12
DA 2.01	D F	Concept Plan Only Roof Level	12.03.12 01.08.12
DA 2.02	D F	Concept Plan Only Level B	12.03.12 01.08.12
DA 2.03	D F	Concept Plan Only Level 1	12.03.12 01.08.12
DA 2.04	D F	Concept Plan Only Level 2	12.03.12 01.08.12
DA 2.05	D F	Concept Plan Only Level 3	12.03.12 01.08.12
DA 2.06	D F	Concept Plan Only Level 4	12.03.12 01.08.12
DA 2.07	D F	Concept Plan Only Level 5	12.03.12 01.08.12
DA 2.08	D F	Concept Plan Only Level 6	12.03.12 01.08.12
DA 2.09	D F	Concept Plan Only Level 7	12.03.12 01.08.12
DA 2.10	D F	Concept Plan Only Level 8	12.03.12 01.08.12
DA 3.01	D F	Concept Plan Only Sections 1	12.03.12 01.08.12
DA 3.02	D F	Concept Plan Only Sections 1	12.03.12 01.08.12

except for as modified by the following pursuant to section 750(4) of the Act.

Reason for Modification: Concept Plan Drawings DA 1.01 to DA 3.02 inclusive are proposed to be updated. The revised Concept Plan drawings are the result of more detailed design work undertaken in relation to the Stage 4 development application currently being prepared for Proposed Lot 41. The revised Concept Plan drawings take into account all the relevant conditions of approval, and particularly the built form controls identified in Condition A6, which require four residential buildings to be provided on Proposed Lot 41. A copy of the modified Concept Plan drawings is provided at **Appendix A**.

(b) Notwithstanding any plans referred to above or any Concept Plan documentation such as the Concept Plan application, Environmental Assessment and Preferred Project Report, this approval does not approve any building envelopes for the purpose of bulky goods. Approval for the land referred to in the Concept Plan as ~~Lots 41 and Lot 42~~ is limited to approval for the use of that land for mixed uses, subdivision, demolition and for remediation of land only.

Reason for Modification: Limiting the terms of the Concept Plan approval as it applies to Proposed Lot 41 to the use of land for mixed uses, subdivision, demolition and remediation has been superseded by the revised Concept Plan Drawings. Drawings DA 1.01 to DA 3.02 inclusive identify building envelopes and address the built form controls and other requirements of the Concept Plan

including for Proposed Lot 41. This part of the condition therefore only remains relevant for future Proposed Lot 42 which still requires design development to establish the building form for that lot as per Condition A6.

It should be noted that no modification is proposed to Condition A1(c) of the current Concept Plan approval.

A4. Building Height and Land Use

All future buildings erected on the site shall not exceed the following building heights and all future buildings shall be limited to the land uses identified on each lot as follows:

Lot/Building	Land Use	Maximum Height Storeys / RL
Lot 42	Mixed Use	6 storeys (refer to A6 for height range)
Lot 41	Mixed Use/Open Space	6 7 storeys (refer to A6 for height range)
Lot 11	Residential/Child Care	4 storeys / RL 39.5 40.2AHD
Lot 21	Residential	3 storeys / RL 36.4 AHD
Lot 31 Building 5A	Seniors Living	4 storeys / RL 32.75 AHD
Lot 31 Building 5B	Seniors Living	6 storeys / RL 38.75 AHD

To allow for minor variations, each block shall not exceed the maximum RL height referred to in the above table by more than 5%, however the maximum number of storey (as defined within the Residential Flat Design Code) shall not be exceeded.

Reason for Modification: The approved Concept Plan restricts height by imposing a maximum six (6) storeys for future development on Proposed Lot 41. This section 75W modification proposes to amend Condition A4 to increase the maximum permissible height on Proposed Lot 41 by one additional storey. The increase in height is sought to provide flexibility for future building designs, whilst responding to the site's constraints, and also ensuring the other terms of the Concept Plan approval can be satisfied.

Proposed Lot 41 experiences a cross site fall of approximately 3.20m along Victa Street (formerly known as New Wade Street) and 2.55m along Mackinder Street (formerly known as New Alfred Street) from north to south, respectively. Proposed Lot 41's topography and the capacity of the surrounding street network limits the location of vehicular entries and exits to the future basement car park. In addition, the Concept Plan approval requires the provision of a public park to face Victa Street (currently referred to as New Wade Street in Concept Plan Condition A6) which is "*clearly accessible and corresponds (in grade) to the surrounding public domain*" (refer to Future Environmental Assessment Requirement No. 13 of the approved Concept Plan).

Accordingly, the arrangement of the basement structure and the four future residential building envelopes on top of the basement have been informed by:

- the external and internal site levels;
- the limited locations available for vehicular access including the requirement to service garbage trucks within the site;
- the need to provide a functional basement car park structure that is compliant with relevant Australian Standards and Canterbury City Council specifications; and
- the requirement to provide a pedestrian friendly, level and accessible public park, which by virtue of the site's constraints is required to be provided in a central location between Victa Street and Mackinder Street, where the levels are less variable.

These factors result in sections of the basement protruding out of the ground level along Victa Street (formerly known as New Wade Street), Mackinder Street (formerly known as New Harp Street) and Tedbury Street (formerly known as New

Alfred Street). However, through the design process of the Stage 4 DA, Kann Finch Architects have identified the opportunity to provide some two-storey apartments with sunken courtyards addressing the street frontages to screen part of the protruding basement car park structure fronting the street. Residential flat buildings can then be constructed around, and on top of, the two storey apartments. The design outcome results in a maximum six (6) storey development fronting a minor stretch of Victa Street at the lowest part of the site, comprising four two-storey apartments directly accessible from Victa Street and four storeys of residential flat building. Along Mackinder Street and Tedbury Street, the same design response achieves a maximum of seven (7) storeys, comprising six two-storey apartments accessible from both street frontages beneath five (5) storeys of residential flat building. The areas of the site that will be effected by the additional storey are shown in **Figure 3** below. Australand's development application documentation has been provided at **Appendix C** for illustrative purposes to show the proposed design detail resulting from the increase in storeys. A typical section of the two-storey apartment and sunken courtyards proposed for Victa Street, Mackinder Street and Tedbury Street is also provided at **Figure 4** to illustrate the proposed design outcome.

The additional storey and sunken courtyards of the apartments diminish along both Victa Street and Mackinder Street as the site levels change. Accordingly, there are only very limited extents of the building facade that result in a full additional storey at street level. At the higher portions of the affected areas, the additional storey presents as a half storey (or less) rather than the full 6/7 storeys described above. The additional storey for a minor extent of the affected street frontages provides sufficient flexibility from the prescriptive height controls, whilst still enabling Australand to maintain the approved number of storeys for the remainder of Proposed Lot 41, consistent with the Concept Plan approval. Despite the increase in building height, the total approved gross floor area will remain unchanged and accordingly there is no proposed increase in building footprint that could impact upon the site's open space provisions. It should be noted that the Stage 4 DA provides the required 3,500m² of publicly accessible park.

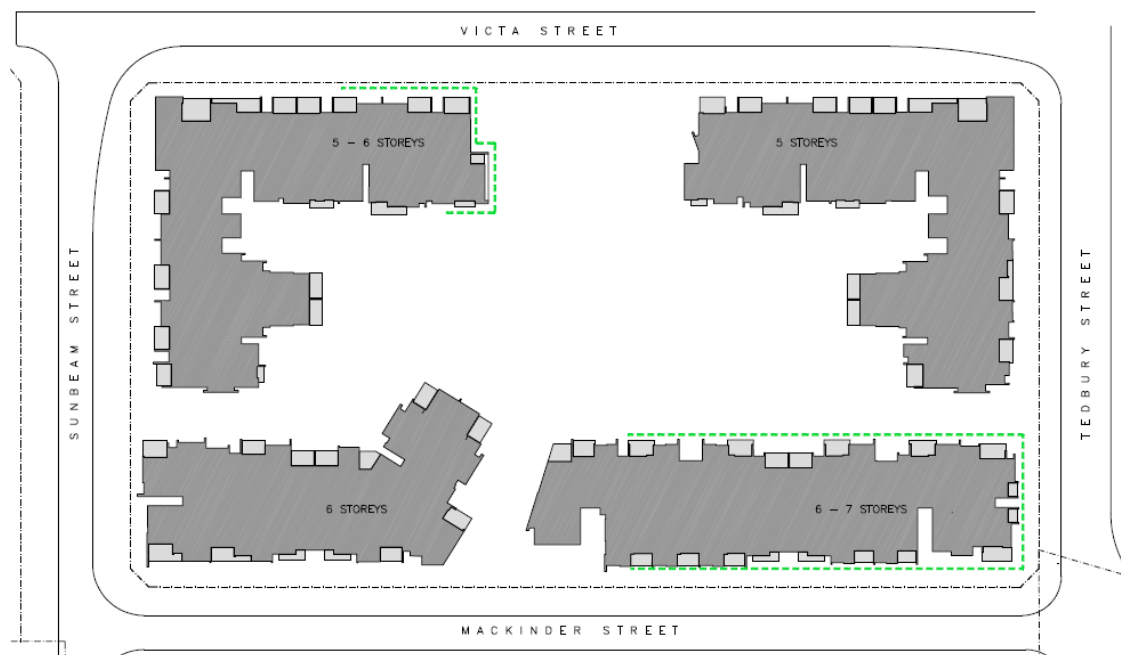


Figure 3 – Proposed location of additional height

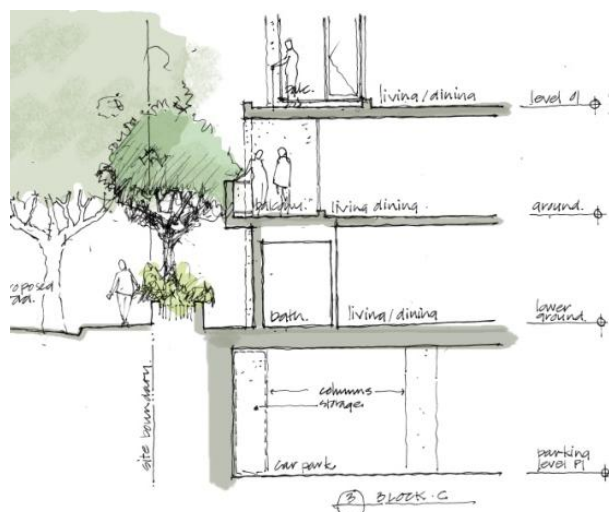
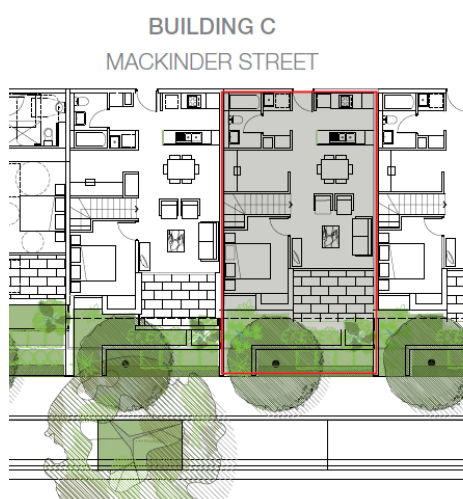
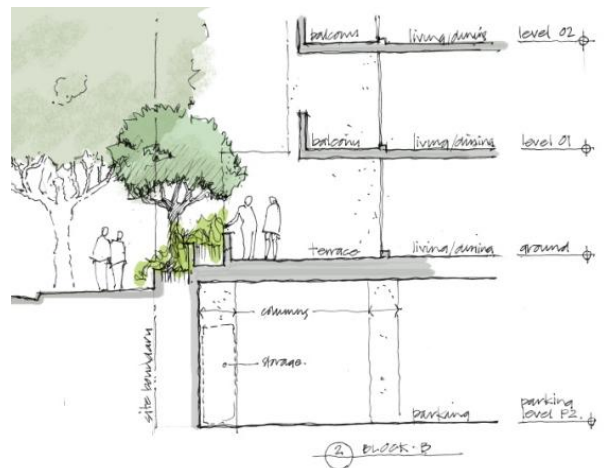
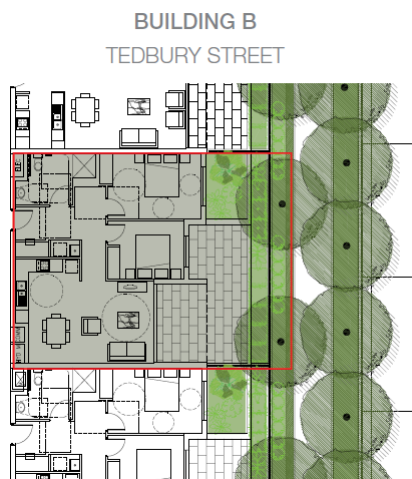
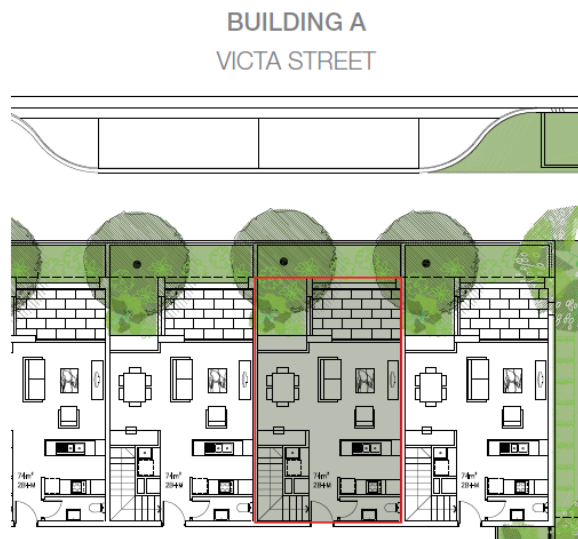


Figure 4 – Indicative floor plans and sections of two storey apartment arrangements fronting Victa Street, Tedbury Street and Mackinder Street

A6. Built Form Controls

(1) Future Development on proposed Lot 42

The Concept Plan is modified on proposed Lot 42 to provide for the following development:

Basements

- a) Off street car parking is primarily to be provided within a below ground parking area.*
- b) Basement areas shall be used for car parking and related infrastructure only.*

Ground Level Podium

- c) Any proposed podium is to be limited to a maximum height of 1 storey.*
- d) A central publicly accessible plaza with a minimum area of 1350m², facing Charlotte Street.*
- e) Active frontages to the public plaza, Charlotte Street, Harp Street and new Alfred Street at ground level.*
- f) A central pedestrian link connecting the plaza on Charlotte Street to the deep soil park on proposed Lot 41.*
- g) Podium roof tops are to be landscaped and made accessible for residents.*

Residential Building Envelopes

- h) 4 residential building envelopes above the podium level with heights ranging from:

 - i) a maximum of 3 storeys (above podium) on the Charlotte and New Troy Street elevations,*
 - ii) a maximum of 4 storeys (above podium) on the Harp Street elevation and for less than 50% of the Charlotte Street elevation.*
 - iii) a maximum of 5 storeys (above the podium) for development fronting New Alfred Street.**
- i) The upper levels along Charlotte Street are to achieve a minimum setback of 5m.*

(2) Future Development on Lot 41

The Concept Plan is modified on proposed Lot 41 to provide for the following development:

- a) 4 separate residential building envelopes with heights ranging from:

 - i) a maximum of ~~6~~ 7 storeys for development fronting ~~New Alfred Street~~ **Mackinder Street (formerly referred to as New Alfred Street) and Tedbury Street (formerly referred to as New Harp Street);***
 - ii) a maximum of ~~5~~ 6 storeys for the remainder of the site.**
- b) A publicly accessible park is to be provided facing ~~New Wade Street~~ **Victoria Street (formerly referred to as New Wade Street)** with a minimum area of 3500m² and is to consist entirely of deep soil area.*

(3) Connections between tower elements and above podium elements are not permitted over public streets, pedestrian links or plaza areas.

Reason for Modification: Condition A6(2) is proposed to be revised to permit an additional storey beyond that already approved. Condition A6(2)(a) is proposed to be modified to:

- permit a maximum 7 storeys fronting 'New Alfred Street', now referred to as 'Mackinder Street' and also allow for a maximum of 7 storeys on Tedbury Street (formerly referred to as New Harp Street); and
- permit a maximum 6 storeys for the remainder of the site.

As outlined above, Australand's proposed design response to the site's topography and other constraints is to 'dress' sections of the basement structure protruding out of the ground with two storey apartments. The two storey apartments achieve an additional storey at the lowest portions of the site. Condition A4 of the Concept Plan approval indicates that storey is defined under the Residential Flat Design Code. For the purposes of this application any protrusion of basement car park structure beyond 1.2m of ground level is considered as a storey.

It is also requested that the street names referenced in the condition be updated to reflect Australand's naming strategy for the entire Clemton Park Village site. It is proposed to modify Condition A6(2)(a)(i) and Condition A6(2)(b) to replace 'New Alfred Street' with 'Mackinder Street'. A separate section 75W Modification will be submitted by Australand to revise the street names references in Condition A6 as they apply to Lot 42 in due course.

2.2 Proposed Modifications to Further Assessment Requirements

Words proposed to be deleted are shown in ~~bold strike-through~~ and words to be inserted are shown in ***bold italics***.

Further Assessment Requirement No. 13. Open Space

(a) Any future application for development on proposed Lot 41 or proposed Lot 42 shall demonstrate that open space areas are clearly accessible and corresponds (in grade) to the surrounding public domain.

*(b) Details are to be provided with the future applications demonstrating that open space areas will be publicly accessible by way of ~~Rights of Ways~~ and Easements on title, ***where relevant***.*

Reason for Modification: As currently approved Further Assessment Requirement No. 13(b) mandates the imposition of Rights of Way and Easement for all publicly open space. It does not recognise that such mechanisms may not be required depending on the ultimate ownership and management arrangements.

This modification therefore seeks to rectify the current wording to clarify the intent and improve the readability of the Requirement by inserting the words "where relevant" at the end of Further Assessment Requirement No. 13(b) to clearly articulate that Rights of Way and Easements should only be provided if required.

The reference to 'Right of Ways' as currently approved is also proposed to be amended to the grammatically correct 'Rights of Way'.

2.3 Proposed Modifications to the Final Statement of Commitments

Since approval of the Concept Plan, the Final Statement of Commitments have been updated and modified to reflect the detailed design for Stages 1 and 2. However, the Final Statement of Commitments continues to largely reflect the format, content and wording that was initially drafted when the Concept Plan and Stage 1 Project Application were first prepared 5 years ago. In addition, the Final Statement of Commitments apply to both the Concept Plan and the Stage 1 Project Application, and accordingly contain both outdated and specific construction management matters that reflect the previous proponent's intentions. Further, many of the Commitments are highly detailed and worded such that they necessitate strict compliance, rather than recognising technological advancements, encouraging innovative design, or facilitating alternative solutions.

Australand has therefore taken the opportunity to holistically update and undertake housekeeping amendments to the currently approved Final Statement of Commitments. The proposed amendments to the Final Statement of Commitments and reasons for the requested changes are provided at **Appendix B**. Words proposed to be deleted are shown in ~~**bold strike through**~~ and words to be inserted are shown in ***bold italics***.

3.0 Environmental Assessment

This section demonstrates that the proposed increase in height by one additional storey on Proposed Lot 41 and the requested amendments to the Final Statement of Commitments do not compromise the merits of the approved Concept Plan. A range of site constraints and amenity factors have been considered in assessing the suitability of the proposed increase in building height along Victa Street, Mackinder Street and Tedbury Street. The proposed amendments sought by this Section 75W modification are consistent with the design principles of the Concept Plan approval and continue to incorporate the intent of the urban design improvements that were imposed as built form controls under Condition A6. Satisfactory solar access and street address can be achieved, despite the increase in the number of storeys.

The amendments to the Final Statement of Commitments are sought to:

- they continue to reflect the general terms of the Concept Plan approval and associated further environmental assessment requirements;
- better reflect Australand's proposed approach to responding to key design, environmental and construction issues during the detailed design and delivery of subsequent stages;
- remove Statement of Commitments that relate to building work matters which are associated with the Project Application approval;
- clarify the intent of the conditions; and
- reduce duplication currently present throughout the Commitments.

3.1 Increased Building Height

As outlined in Section 2.1, this Section 75W Modification requests Conditions A4 and A6 be amended to permit an additional storey on Proposed Lot 41. More specifically, whilst the approved height controls can largely be satisfied, the amendments propose a maximum 7-storey building height at the lowest parts of Mackinder Street and Tedbury Street, and a maximum 6-storey building height along Victa Street.

The variation in height is primarily in response to the site's topography, and the corresponding protrusion of the proposed basement, whilst ensuring the project remains consistent with the other parameters of the approved Concept Plan. The addition of an extra storey along Victa Street, Mackinder Street, Tedbury Street and fronting the future central park will allow for greater flexibility in the design of the future buildings which cannot presently occur under the approved Concept Plan due to the prescriptive nature of imposed modifications and future assessment requirements.

The proposed increase in height will not result in any significant change to the bulk and scale of the buildings, any additional floor space nor will it reduce open space provision required to be provided on Proposed Lot 41. The proposed increases to the approved building heights are limited to short stretches, with the remainder of the future Proposed Lot 41 residential buildings within the approved building heights. Where the proposed increases in height do occur, two-storey terraced apartments with ground level courtyards are proposed to address the street frontages. These arrangements will ameliorate level changes progressing southwards along the street frontages, and ensure that each future residential building can sit well within, and respond to, its context. In addition, the proposed increase in the maximum number of storeys along short stretches of Proposed Lot 41's street frontages will provide an appropriate scale within the context of the surrounding development and facilitate future building articulation. The design of

the four residential buildings, and in particular the two-storey apartment elements that drive the proposed increase in height, will address and reinforce the streets and street corners established under the Concept Plan approval. The framed two storey apartment elements will create a podium type expression through to the upper level residential structure, thereby giving a strong horizontality to the future building form. As the additional building height is provided at the lowest levels of the site, and there is no intention to provide additional height at the upper levels, there are no new or additional shadowing impacts.

SEPP No.65 - Design Quality of Residential Flat Development and the Residential Flat Design Code (RFDC) place significant emphasis on detailed and rigorous analysis of site context, opportunities and constraints to inform the design process and ultimately improve the design quality of residential flat buildings. Whilst the detailed design of the buildings has not been finalised, the proposed variation to the Proposed Lot 41 building heights clearly achieves SEPP 65's and the RFDC's contextual, scale and built form objectives.

Principle 1: Context

Principle 1 of SEPP 65 indicates that *"good design responds and contributes to its context"*. This emphasis is reiterated in the RFDC which states:

"Good design responds and contributes to its context. Context is everything that has an impact on an area: its key natural and built features. Context includes social, economic and environmental factors as well as the physical form of the area and its surrounds. Understanding context means understanding how the inter relationships between all these factors, and between the local area and the region, will have an impact on the area in the future. Responding to the local context involves identifying the desirable elements of current character or the key aspects of character that are important to its future.

Understanding the local context is a key step in the process of establishing a robust urban structure which can support change and help to identify the appropriate building types and development controls for a particular situation.

Site analysis is an important part of the design process. Development proposals need to illustrate design decisions, which are based on careful analysis of the site conditions and their relationship to the surrounding context. By describing the physical elements of the locality and the conditions impacting on the site, opportunities and constraints for future residential flat development can be understood and addressed in the design".

Further, the RFDC provides that primary controls (including building height) must be carefully tested to ensure the desired built form outcome is achievable. It is understood that the height controls identified in Condition A4 and the built form controls imposed under Condition A6 of the approved Concept Plan may not have resulted from a rigorous analysis of the site's opportunities and constraints, including topography, basement car park configuration or layout of the future public park. The proposed increase to the building height for Proposed Lot 41 sought in this modification is therefore based on what can be practically achieved under the approved Concept Plan, after a thorough analysis of context and a detailed assessment of this context against the built form controls.

Principle 2: Scale

The addition of an extra storey on the lowest parts of the site as sought by this modification does not compromise the scale of the future Proposed Lot 41 development. The modified heights facilitate the opportunity for Australand to pursue an innovative design outcome that will respond to the existing and proposed neighbourhood scale both within Proposed Lot 41 and in the context of the adjoining development blocks. This is demonstrated by the architectural plans prepared by Kann Finch at **Appendix A** which provide sections through Proposed

Lot 41 and adjoining development. Australand's intention to construct two storey apartments on elements provides an opportunity to construct finer grained built form that breaks up the building envelope mass. The proposed increase in height will therefore also help modulate the building envelopes both horizontally and vertically thereby responding to, and framing, the future pedestrian connections within and adjacent to Proposed Lot 41.

Principle 3: Built Form

The increased height clearly satisfies the desired SEPP 65 and RFDC built form outcomes. The flexibility afforded by the additional storey facilitates an innovative design outcome which will ensure that the established streets and street corners are addressed and reinforced. The modification also creates opportunities to facilitate a range of dwelling typologies, circulation zones and street address for the four future residential buildings.

Remaining SEPP 65 Principles

In preparation of this proposal Australand's design team undertook a thorough review of the Concept Plan including the preparation of schematic designs for each of the future proposed buildings that will form the basis of a development application to be submitted to Canterbury City Council. The appended architectural drawings for the future Stage 4 DA illustrate that the proposal is generally consistent with the SEPP 65 design principles and is capable of complying with the RFDC as outlined below. Notwithstanding this, detailed SEPP 65 compliance will be addressed as part of the impending development application.

- **Principle 4: Density** - there is no proposal to increase the floor area as a result of the additional height and as such the proposal remains compliant with densities approved under the Concept Plan's maximum allowable GFA.
- **Principle 5: Resource, energy and water efficiency** - the additional storeys along Mackinder Street, Tedbury Street and Victa Street provide the opportunity to deliver appropriately orientated dwellings which are capable of achieving the acceptable levels of solar access, and ventilation.
- **Principle 6: Landscape** - the proposed modifications facilitate the provision of two storey dwellings with courtyards facing the street, thereby providing future enhanced experiences along the street frontage.
- **Principle 7: Amenity** - the modification to increase the height and provide the proposed two-storey dwelling typology will strengthen the future development application's ability to satisfy SEPP 65's amenity principle. Testing of the development application drawings amenity performance confirms that appropriate room dimensions and shapes, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility can all be achieved.
- **Principle 8: Safety and Security** - the additional height at the lowest parts of site and the construction of dwellings directly accessible from the street maximises opportunities to overlook the public domain, create activity, provide clear safe access points and a clear definition between public and private spaces.
- **Principle 9: Social Dimensions** - as outlined above, the modification creates opportunities to facilitate a range of dwelling typologies, circulation zones and street address for the four future residential buildings.
- **Principle 10: Aesthetics** - SEPP 65's Aesthetics Principle is satisfied through the addition of built form which will 'dress' the lower parts of the site with the future two-storey residential dwellings. The use of well designed building elements, textures, materials and colours used in the construction of the dwellings will screen the arguably less attractive protruding basement structure.

It is evident from the above, that the proposed modification provides for a high quality residential environment. The framework of the approval conditions and detailed controls already imposed on the Clemton Park Village Concept Plan helps ensure that the future development of Proposed Lot 41 will provide a high quality residential design outcome.

3.2 Proposed Modifications to the Final Statement of Commitments

The proposed scope of amendments is considered minor given the stage of the project, the overall terms of the Concept Plan approval and further environmental assessment requirements, and the ability for Canterbury City Council to impose conditions of consent of future development applications. There is no material impact on the approved Concept Plan, as a result of the proposed amendments to the Final Statement of Commitments as outlined in **Appendix B**.

4.0 Conclusion

The assessment of the proposed modification to the maximum building height for Proposed Lot 41 within the Clemtown Park site indicates that the proposal is justified given the multiple influences that constrain the realisation of residential development consistent with the current terms and requirements of the approved Concept Plan.

The holistic assessment of the various amenity considerations demonstrate that notwithstanding a technical increase in the number of storeys at localised areas of the site, future development on Proposed Lot 41 will deliver an enhanced design outcome and a high level of residential amenity.

The modification seeks to amend Further Assessment Requirement, to provide greater clarity. It also seeks to update and reconcile the approved Final Statement of Commitments to reflect the currently approved documentation. The proposed scope of amendments is considered minor given the stage of the project, the overall terms of the Concept Plan approval and further environmental assessment requirements, and the ability for Canterbury City Council to impose conditions of consent of future development applications. There is no material impact on the approved Concept Plan.

The modification to Conditions A2, A4, A6 and Schedules 3 and 4 of the Concept Plan approval is therefore warranted in this instance.