

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



Clemton Park Village

Concept Plan Modification (Mod 4)

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

Volume 1 of 1

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This report has been prepared by: Michael Rowe

Signature



Date 23/11/12

This report has been reviewed by: Stephanie Ballango

Signature



Date 23/11/12

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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 Clemtun 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).

The purpose of this report is to request the Minister for Planning and Infrastructure (or his delegate) to modify the Clemtun 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 providing envelopes for Proposed Lot 42 and updating and reconciling the Terms of Approval, Further Environmental Assessment Requirements and approved Final Statement of Commitments.

The Clemtun 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.

The Stage 1 Project Application concurrently submitted with the Concept Plan sought approval for a five storey bulky goods premises with commercial, trade retail, gym, retail shops and 695 car spaces on land now identified as Proposed Lot 42. In approving the Concept Plan, the Minister for Planning and Infrastructure modified the Concept Plan for which approval was originally sought, and in doing so, imposed arbitrary maximum GFAs and heights for Proposed Lot 42 that are now required to be read in conjunction with the design parameters set out in Condition A6.

To our knowledge the approved design parameters were not tested prior to being imposed. This Section 75W Modification therefore seeks approval for building envelopes on Proposed Lot 42 that reflect the intent of the Minister's modifications to the Concept Plan whilst also acknowledging the site's constraints and conceptually incorporating a range of improvements that have been informed by the design and economic analysis that has been undertaken since the Concept Plan was approved.

The holistic assessment of the various built form and amenity considerations demonstrate that notwithstanding a technical increase in the number of storeys at localised areas of the site, future development on Proposed Lot 42 will deliver an enhanced design outcome, minimise environmental impacts on the adjoining properties and deliver a high level of residential amenity.

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. The modification to the Concept Plan approval is therefore warranted in this instance.

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 Concept Plan approval for building envelopes on Proposed Lot 42. In doing so, amendments are also sought to the terms (i.e.: conditions) of the Concept Plan approval, approved Future Environmental Assessment Requirements, and Final Statement of Commitments.

This report has been prepared by JBA for Australand, and is based on plans and drawings provided by Kann Finch (**Appendix A**) and Group GSA (**Appendix B**). It describes the proposed Concept Plan modifications 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 under the now repealed Part 3A of the EP&A Act. 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 A3 and A4 specify the

maximum floor space and building heights for each development block across the site including Proposed Lot 42. 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 identify the documentation and matters that may need to be addressed by future applications.

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.

On 29 August 2012, Australand submitted to the Department a Section 75W Modification (i.e.: Modification No. 3) in relation to Proposed Lot 41. Modification No. 3 seeks approval for four (4) building envelopes, an increase in the overall maximum building height by one additional storey and amendments to the built form controls imposed under Condition A6 of the Concept Plan as they apply to Lot 41. In addition, amendments have also been sought to the Final Statement of Commitments.

It is understood that the Department has finalised its assessment of Modification No. 3, and approval is anticipated in the coming weeks.

1.1.2 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, construction of a new residential building and a child care centre on Lot 11 (MP 08_0087) road and infrastructure works throughout the site. The demolition works have been

completed and the site has now been remediated. Construction of the new residential building and child care centre is close to completion.

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 has also lodged a development application for Proposed Lot 41, being Stage 4 of the Clemton Park Village Project (DA No. 348/2012). The development application is currently being assessed by Canterbury City Council. In most recent discussion with Council, Australand has been advised that there are no significant issues associated with that particular development proposal.

1.1.3 Lot 42 Concept Plan Approval

The evolution of the Concept Plan approval as it now applies to Lot 42 is particularly convoluted and therefore worthy of summation. In order to understand the current terms of approval and the scope of the modifications now sought as part of this Section 75W Modification (refer to Section 2.0), the following section provides an overview of the proposed and approved land uses, GFA and height controls imposed by the Concept Plan for Proposed Lot 42.

In its former guise as the Sunbeam Factory, the site was categorised as 'Category 1 Employment Land'. In order to offset the loss of employment lands, and provide alternative employment generating uses, Proposed Lot 42 was originally earmarked for predominantly bulky goods premises under the Concept Plan. The Stage 1 Project Application concurrently submitted with the Concept Plan sought approval for a five storey bulky goods premises with commercial, trade retail, gym, retail shops and 695 car spaces on land now identified as Proposed Lot 42. The proposed building occupied the majority of Proposed Lot 42 and had a maximum height of 25.1m and GFA of 30,367m² (see **Figure 1**). It also noted that a supermarket, medical centre, and retail uses were also proposed on Proposed Lot 41.



Figure 1 – Artist impression of the bulky goods development from the proposed Concept Plan

During the exhibition of the Concept Plan and Stage 1 Project Application, Council raised concern regarding the proposed retail uses and their potential impact on the viability of surrounding centres. The Department consequently engaged an

independent expert, Hill PDA, to assess the impact of the proposed bulky goods, and retail uses on nearby centres. The Hill PDA report indicated strong evidence was available at the time that suggested an undersupply of supermarket floor space in the locality. In particular, Hill PDA forecast a 5,000m² undersupply of supermarket floor space in the locality to 2011 (when the proposed centre was expected to have its first full year of trade). The Hill PDA report also found that at this same time, existing centres including Campsie, Earlwood and Canterbury, were likely to be trading above the metropolitan average. The competition created by bulky goods and retail uses on the Clemton Park Village site and predicted transfer of consumers from these established centres to the Clemton Park Site was found to be reasonable. The Department referenced and concurred the findings of the Hill PDA report in its assessment of the Concept Plan and Stage 1 Project Application, stating:

"Based on the Hill PDA report, the proposal is considered acceptable as there is sufficient undersupply of both supermarket and bulky goods floor space in the locality, meaning the proposal is unlikely to impact upon established centres".

It is understood that the Department's assessment report on the Concept Plan and Stage 1 Project Application was referred to the Planning Assessment Commission (PAC) for determination as the Minister's delegate. The PAC in its review of the DG's assessment report concluded that:

"...The Commission recognises the significant opportunities that exist in the redevelopment of a site of this scale in this location. It appears however, that the drive to create jobs has resulted in a less than optimal mix of proposed land uses and the subsequent design for the site.

This site presents an ideal opportunity for a high quality, well designed residential development in the area and the Commission considers that there is also a good case for a supermarket and range of neighbourhood scale uses on the site in the vicinity of the Charlotte and Harp St intersection".

The Minister approved the Concept Plan subject to the conditions or Terms of Approval that formed the original Instrument of Approval for the Concept Plan, and which have in part subsequently been modified as outlined in Section 1.1. Of particular note is Condition A1(b) which provides:

"(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 referred to in Stage 1. Approval for the land referred to in the Concept Plan Staging Plan (see above) as Lots 41 and 42 is limited to approval for the use of that land for mixed uses, subdivision, demolition and for remediation of land only".

Notwithstanding the Minister explicitly not approving building envelopes for the bulky goods and retail component of the Concept Plan, the Minister did impose arbitrary maximum GFAs and heights for the site which do not correlate to the height of GFA for which approval had been sought. The Minister also imposed additional built form and design parameters for the future development of Lot 42. These controls are now in force through:

- Condition A3 Maximum Gross Floor Area;
- Condition A4 Building Height and Land Use;
- Condition A5 Car Parking Rates; and
- Condition A6 Built Form Controls.

It is our understanding that the built form controls and design parameters that were ultimately approved (and continue to be in place at the present time) were never tested in terms of their economic viability or actual built form outcomes. It is also our understanding that an assessment of, or justification for, imposing the Terms of Approval was not undertaken, or at the very least has never been public released.

Since purchasing the site Australand has undertaken extensive and detailed retail and residential market analysis, and started designing building envelopes in accordance with the terms of the Concept Plan approval. As part of that process, it has become clearly apparent that the arbitrary development parameters imposed by the Minister cannot deliver a commercially viable development or deliver the best built form outcome for Proposed Lot 42 or indeed the existing and future residential development that benefits from an interface with Proposed Lot 42. This Section 75W Modification therefore seeks approval for building envelopes on Lot 42 that reflect the intent of the Minister's modifications to the Concept Plan but incorporate a variety of improvements as a result of the further design and economic analysis that has been undertaken by Australand and its consultant team.

2.0 Description of Proposed Modifications

This section 75W modification seeks to:

- provide building envelopes for Proposed Lot 42 and consequently reconcile the relevant conditions of the Concept Plan approval;
- amend Further Assessment Requirement Nos. 10, 11 and 20 to correct issues identified during the detailed design phase; and
- provide additional Statement of Commitments.

The proposed modifications to the Concept Plan approval (as modified) are outlined in detail Section 2.1 below. Section 2.2 identifies the specific amendments sought to the currently approved terms of approval and provides reasons for the proposed modifications. Sections 2.3 and 2.4 undertake the same exercise for the currently approved Further Environmental Assessment Requirements and Final Statement of Commitment respectively.

2.1 Proposed Lot 42 Modifications

Building Envelopes

As detailed in Section 1.1.3, the Minister in approving the Concept Plan modified the Concept Plan for which approval was originally sought, and in doing so, imposed arbitrary maximum GFAs and heights for Proposed Lot 42 that are now required to be read in conjunction with the design parameters set out in Condition A6. As also outlined in Section 1.1.3, the approved design parameters were not tested prior to being imposed (to our knowledge). This Section 75W Modification therefore seeks approval for building envelopes on Proposed Lot 42 that reflect the intent of the Minister's modifications to the Concept Plan whilst also acknowledging the site's constraints and conceptually incorporating a range of improvements that have been informed by the design and economic analysis that has been undertaken since the Concept Plan was approved.

A maximum of five (5) building envelopes are sought on Proposed Lot 42, as opposed to the four (4) required by the current approval. The proposed Lot 42 envelopes comprise:

- A basement for car parking and building plant / services;
- A 1,350m² publicly accessible plaza facing Mackinder Street;
- A ground level podium (up to 3 storeys in height) including retail, residential, and community uses, including loading docks and associated services and amenities;
- Five (5) residential building envelopes (above the podium):
 - Building 1: 3 Storeys (above podium) at the corner of Sunbeam Street and Mackinder Street;
 - Building 2: 3 Storeys (above podium) at the corner of Sunbeam Street and Charlotte Street;
 - Building 3: 4 Storeys (above podium) on Charlotte Street;
 - Building 4: 5 Storeys (above podium) at the corner of Harp Street and Charlotte Street; and
 - Building 5: 3-5 Storeys (above podium) at the corner of Harp Street and Mackinder Street.

An envelope study comparing the envelopes created by the terms of the Concept Plan approval and the Proposed Lot 42 envelopes are shown at **Figures 2 and 3** from two different perspectives.

A 'Proposed Lot 42 Masterplan' drawing is shown at **Figure 4** for illustrative purposes. An indicative design scheme has been prepared (see **Appendix B**) for information purposes to help inform the Department's assessment of the Modification Application. It is noted the number of apartments, mix, sizes etc. are indicative only and subject to change as part of the detailed design process.

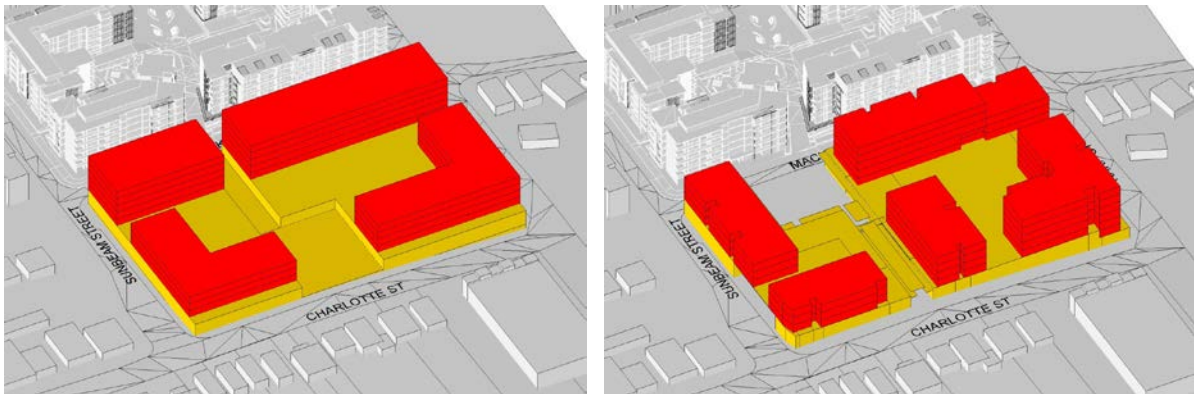


Figure 2 – Envelope Study comparing the likely approved and proposed building envelopes (looking west)

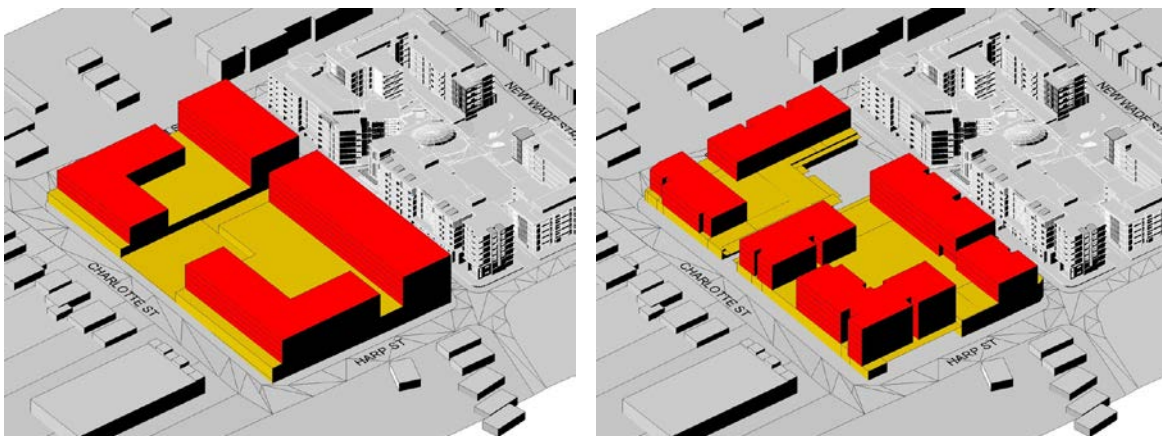


Figure 3 – Envelope Study comparing the likely approved and proposed building envelopes (looking north)

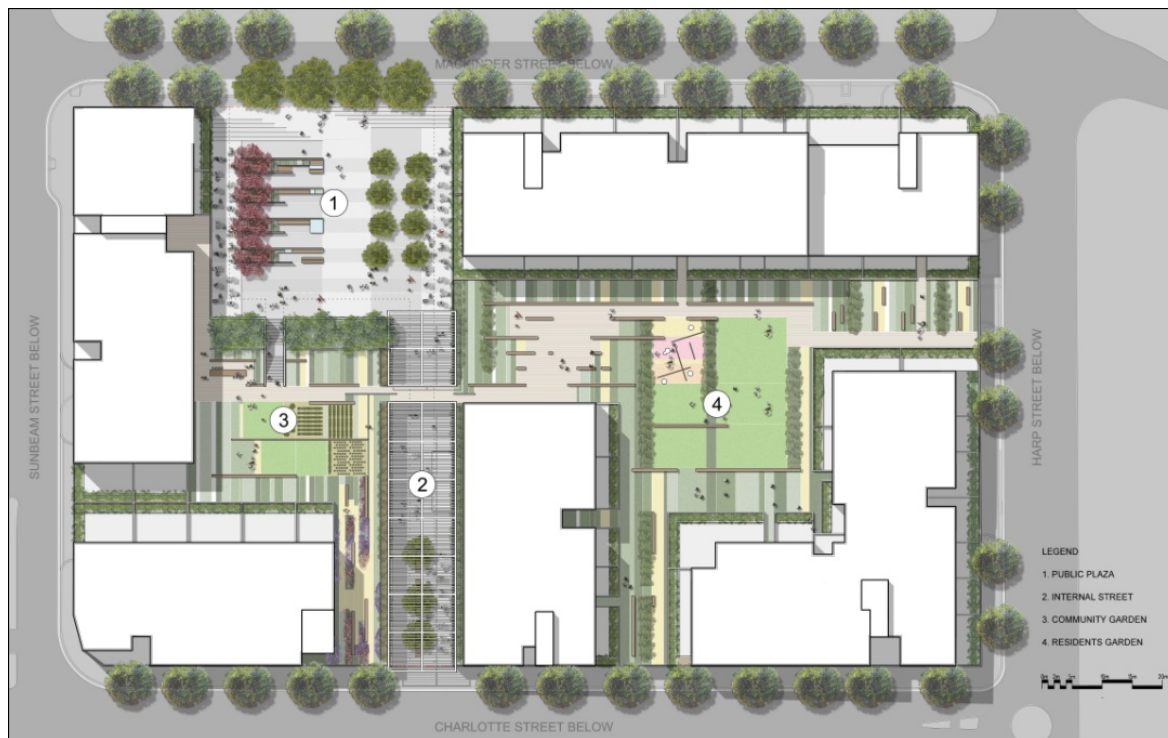


Figure 4 – Indicative Proposed Lot 42 Masterplan

Land Use Mix and Gross Floor Area

Within the proposed envelopes, a modified land use distribution is also sought. A summary of the approved and amended land use distribution is shown in **Table 1**. It is noted that the total Proposed Lot 42 GFA contemplated by this Section 75W Modification does not exceed the currently approved maximum GFA on Proposed Lot 42.

Table 1 – Approved and proposed land use distribution

Approved		Proposed	
Use	GFA (m ²)	Use	GFA (m ²)
Residential - Apartments	19,260	Residential - Apartments	20,290
Retail	4,400	Retail	7,655
Commercial	2,000	Community	300
Supermarket	2,585	-	-
Total	28,245	Total	28,245

Plaza Relocation

Condition A6(1)(b) stipulates that the future development on Proposed Lot 42 will comprise a 'central publicly accessible plaza with a minimum area of 1350m², facing Charlotte Street'. The Modification Application proposes to retain the central publicly accessible plaza with a minimum area of 1,350m² but reorientate it to face Mackinder Street.

Access and Car Parking Arrangements

The approved Concept Plan does not specifically approve vehicular access arrangements for the Lot 42. It should be noted however that the approved TMAP modelled potential access scenarios having regard to the scheme that formulated the Preferred Project Report.

Since the approval of the Concept Plan, further detailed analysis has been undertaken of the surrounding local road network and its capacity, particularly in

the context of the Concept Plan approval which identifies particular streetscape and pedestrian access objectives along Charlotte Street. In addition, Australand has commenced exploring loading dock and servicing requirements with potential future retail tenants. The future loading dock locations are therefore limited to particular streets (Sunbeam Street and Harp Street), whilst also being separated from vehicular access to the residential buildings which is sound traffic planning.

In this context, the Section 75W Modification seeks in principle approval for the vehicular access and loading dock arrangements shown in **Figure 5** and as identified below:

- loading docks on Harp Street and Sunbeam Street;
- retail access driveways on Harp Street and Sunbeam Street; and
- a residential access driveway on Mackinder Street to the immediate north of Harp Street to provide for its own 'address' and ensure separation of residential traffic from retail traffic.

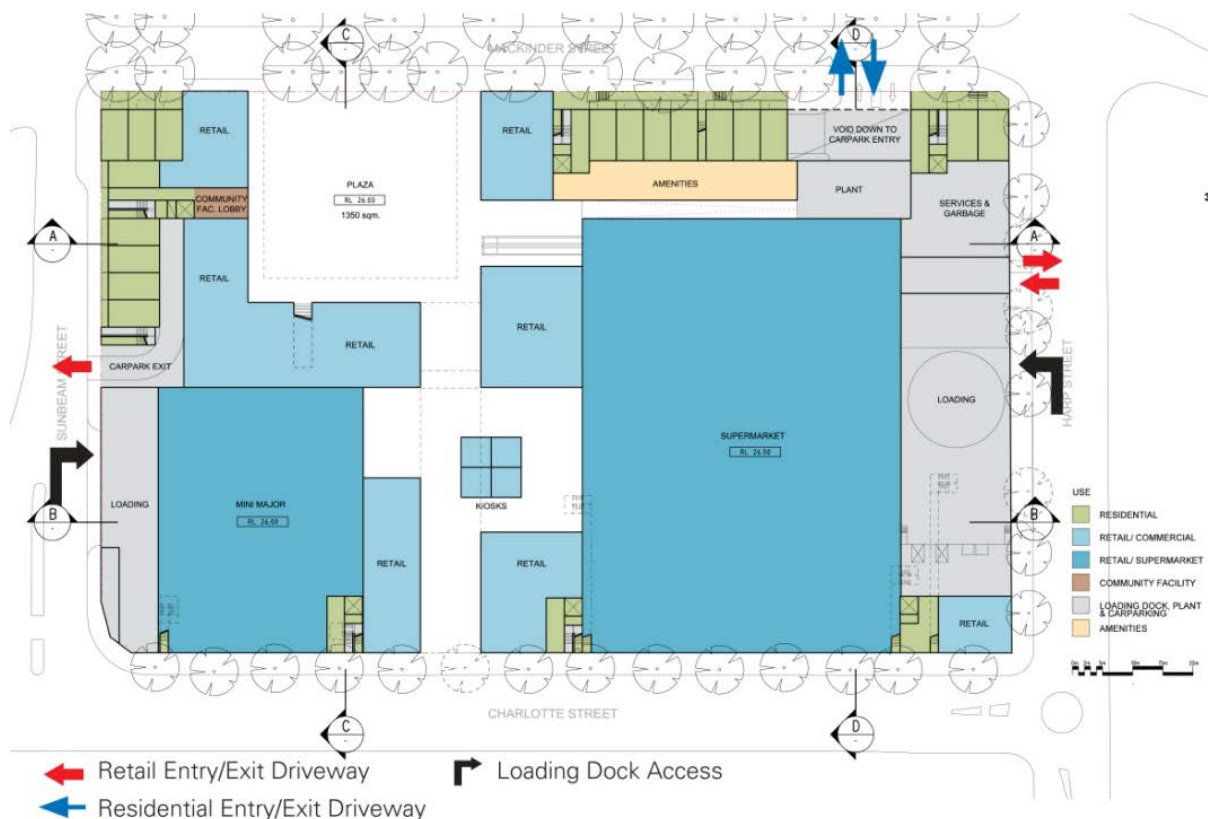


Figure 5 – Proposed Lot 42 Vehicular Access and Loading Docks -

The currently approved car parking rates are also proposed to be modified to nominate a standard car parking rate of 4 spaces per 100m² of retail GFA for all retail uses irrespective of the retail subsector (supermarket, mini-major or specialty retail).

2.2 Proposed Modifications to the Approval

The following section marks up the specific modifications sought to the Concept Plan Terms of 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, **community facility**, 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 6 to 7 storeys;*
- *Building envelopes for a podium level and ~~4~~ **5** buildings above podium on proposed Lot 42, with total heights from ~~4~~ **5** to ~~6~~ **8** 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 42 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, **the section 75W Modification by JBA, dated 23 November 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	F G	Concept Scheme Only Cover Sheet	01.08.12 20.11.12
DA 2.01	F G	Concept Plan Only Roof Level	01.08.12 20.11.12
DA 2.02	F G	Concept Plan Only Level B	01.08.12 20.11.12
DA 2.03	F G	Concept Plan Only Level 1	01.08.12 20.11.12
DA 2.04	F G	Concept Plan Only Level 2	01.08.12 20.11.12

			20.11.12
DA 2.05	F G	Concept Plan Only Level 3	01.08.12 20.11.12
DA 2.06	F G	Concept Plan Only Level 4	01.08.12 20.11.12
DA 2.07	F G	Concept Plan Only Level 5	01.08.12 20.11.12
DA 2.08	F G	Concept Plan Only Level 6	01.08.12 20.11.12
DA 2.09	F G	Concept Plan Only Level 7	01.08.12 20.11.12
DA 2.10	D E	Concept Plan Only Level 8	01.08.12 20.11.12
DA 3.01	F	Concept Plan Only Sections 1	01.08.12
DA 3.02	F G	Concept Plan Only Sections 1	01.08.12 20.11.12

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 (noting DA 3.01 does not change) are proposed to be updated to show the approved building envelopes for Proposed Lot 42. The revised Concept Plan drawings are the result of more detailed design work undertaken for Proposed Lot 42. 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 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 42 to the use of land for mixed uses, subdivision, demolition and remediation will be 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 42. This condition therefore is no longer relevant.

A3. Maximum Gross Floor Area

*The redevelopment of the former Sunbeam Factory Site for a mix use development involving a maximum of 76, 128m² * of GFA comprised of:*

Proposed Lot	Use	Floor Space
11	Residential - Apartments	5,974m ²
	Child Care Centre	547m ²
21	Residential - Apartments	6,514m ²
31	Residential - Seniors/Aged Care	9,548 m ²
41 (FSR 2.1:1)	Mixed Use / Residential - Apartments/Open Space/Seniors Living	25,300m ²
42 (FSR 2.1:1)	Residential Flat Buildings ** ~Apartments	19,260 20,290m ²
	Retail Retail Premises / Business Premises	4,400 7,655m ²
	Commercial	2,000m ²
	Supermarket	2,585m ²

	Community Facility	300m²
Total		76,128m²

* The maximum floor space may not be achievable within the approved height envelope as identified in condition A4.

**** Determination of the proposed commercial use is deferred until such time as a further investigation has been undertaken into the viability of commercial offices on the subject site in terms of demand for office floor space in this location and impact upon existing town centres in the locality. This investigation is to be undertaken by a suitably qualified professional and is to be submitted to and determined by the Department prior to the issue of a Construction Certificate for development on proposed Lot 42. Any residual floorspace not used by other uses within Proposed Lot 42 can be allocated to the residential flat buildings above the maximum shown for that use, but only within the maximum GFA approved for that lot.**

Reason for Modification: The GFA table is proposed to be modified to reflect the revised distribution of uses discussed in Section 2.1 and shown on the indicative design scheme at Appendix B. Importantly it is noted that there is no change to the maximum GFA approved for Proposed Lot 42. The changes proposed to the table are as follows:

- To provide greater clarity, and with gazettal of Council's Standard Instrument LEP imminent, the land uses in the table have also been updated to reflect uses as defined in the Standard Instrument.
- 'Supermarket' is not a specifically defined use in Council's PSO or the Standard Instrument. Accordingly the 'supermarket' GFA has been incorporated into the higher level 'retail premises' use. It is noted that supermarket GFA is still proposed within the maximum retail GFA. A Statement of Commitment that provides maximums/minimums for the future retail uses within the total approved 'retail' GFA has been added as detailed in Section 2.4. This change has been made in order to provide flexibility for the future retail uses as the tenants and their specific requirements are not currently known. It is noted that the assessment considers the impact of the maximum supermarket GFA potential on the site, which would be achieved through providing a Major Full Line supermarket and a Mini Major supermarket. A Retail Economic Assessment is provided at **Appendix E** and summarised in Section 3.2.
- The commercial uses have been removed from the table and the GFA redistributed to the other land uses. As the commercial uses have been removed from the table the corresponding note below the table has also been removed. The viability of commercial uses on the site and its impact on existing town centres is addressed at **Appendix E**.
- Due to the removal of the commercial use GFA and the redistribution of retail use and community facility GFA, the residential GFA has been correspondingly increased by 1,035m².
- As requested by Council, during VPA discussions, a community facility is now proposed within Lot 42. Accordingly a new use has been added in the form of 'Community Facility' with a maximum GFA of 300m², which reflects the discussions Australand has recently commenced with Council in relation to a Voluntary Planning Agreement for the site. If a VPA is not entered into it is proposed that this GFA could be used for residential uses.

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 8 storeys (refer to A6 Concept Plan Drawings for height range)
Lot 41	Mixed Use/Open Space	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 42. This section 75W modification proposes to amend Condition A4 to increase the maximum permissible height on Proposed Lot 42 by one to two additional storeys. Whilst the 'maximum height' in terms of the number of storeys is proposed to increase, this modification does not correspond to a direct two storey increase in the height of the development but is a result of:

- responding to the site's constraints, specifically its topography; and
- the way 'storeys' are defined and its implications when residential uses are provided within the podium to ensure the other terms of the Concept Plan approval can be satisfied.

The maximum number of storeys in Condition A4 was based on the presumption that there would be a 1 storey podium comprising retail uses. A key requirement of the retail uses is that they require a double height space. Whilst the retail uses are themselves only 1 storey (as defined in the Standard Instrument¹), the retail has an effective height of two residential storeys.

Proposed Lot 42 experiences a cross site fall of approximately 5.3m from its high point at the corner of Sunbeam Street and Charlotte Street to the low point at the corner of Mackinder Street and Harp Street. Proposed Lot 42's topography and the capacity of the surrounding street network limits the location of loading docks and vehicular entries and exits to the future basement car park.

Accordingly, the arrangement of the basement structure and the podium and five 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 and allow truck access to loading docks;
- 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 plaza.

¹ Storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic."

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

In order to screen the basement car park structure and have active uses addressing the main frontages, as required by Condition A6(1)(c), residential uses are proposed at ground level in various locations around the perimeter of parts of Proposed Lot 42. However, due to the difference in floor to floor heights, where these residential uses are proposed they result in a two storey podium, despite having the same effective height as the one storey retail podium.

The combination of the topography and providing residential uses in the podium results in a maximum eight storey development fronting a minor stretch of Mackinder Street, comprising a three storey podium and five storeys of residential flat building. In other locations across the site, the maximum height ranges between four and seven storeys, with a podium that ranged between 1 and two storeys. Despite the increase in building height, the total approved gross floor area will remain unchanged.

A5. Car Parking

The number of car spaces to be provided for the entire development shall not exceed the following maximum car parking rates:

Land Use	Rate
Retail Premises / Business Premises	<i>1 space per 25 34m²</i>
Supermarket	<i>1 space per 28m²</i>
Seniors living - Independent Living Units (Lot 31)	0.5 spaces per bed 1 visitor space for 5 units
Seniors Living - High Care (Lot 31)	1 space per 10 beds 1 space for every 2 staff
Child Care	1 space for every 2 staff
Residential	1 space for 1 bedroom units 1.2 spaces for 2 bedroom units 2 space for 3 bedroom units 1 space per 5 units for visitors
Commercial	<i>1 space per 40m²</i>

Reason for Modification: The removal of a specific supermarket car parking rate and nomination of a standard maximum retail car parking rate is proposed to reconcile Condition A5 Car Parking with Condition A3 Maximum Gross Floor Area. The proposed modifications as marked up above will ensure that consistency in land use terminology is achieved throughout the Instrument of Approval.

An increase in the car parking from the currently approved rates of 1 space per 34m² (retail) and 1 space per 28m² (supermarket) is proposed to ensure that all parking demands associated with Lot 42 are accommodated on-site with no reliance on on-street parking. There is no retail parking proposed to be provided within any other lot across the Clemton Park Village site. Provision of parking below the proposed rate of 4 spaces/100m² could potentially result in on-street parking effects in residential areas, creating adverse impacts on the amenity of existing residents. Sufficient parking is essential to preserve and protect the amenity of residents in the locality, particularly those in Alfred Street, Harp Street, Charlotte Street and Troy 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

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

Residential Building Envelopes

- ~~a) 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.~~~~
- ~~b) The upper levels along Charlotte Street are to achieve a minimum setback of 5m.~~

Reason for Modification: As the proposed development seeks approval for building envelopes on Proposed Lot 42 and the architectural plans (see **Appendix A**) will form part of approved envelopes under Condition A1, the parameters in Condition A6(1) have become redundant and are accordingly proposed to be removed. Notwithstanding this, the modified development has been designed consistent with the intent of those parameters and where appropriate modifies those parameters where it results in a better built form outcome. **Table 2** demonstrates the consistency of the proposed envelopes with Condition A6(1) and notes, where relevant, the proposed modifications. The merits and impacts of the proposed modifications are discussed further in Section 3.0

Table 2 – Consistency with the Condition A6 Design Parameters

Condition A6 Design Parameters for Lot 42	Modified Lot 42 Envelope
Basements	
a) Off street car parking is primarily to be provided within a below ground parking area.	Consistent. All car parking will be provided below ground.
b) Basement areas shall be used for car parking and related infrastructure only.	Consistent. Basements will only be used for car parking and related infrastructure.
Ground Level Podium	
a) Any proposed podium is to be limited to a maximum height of 1 storey.	In certain places the podium will be up to '3 residential storeys' in height. However, this height is dictated by the double height required for the retail uses in conjunction with the topography of the site. The height of the podium is generally 1 retail / 2 residential storeys. See further discussion in Section 3.1.1.
b) A central publicly accessible plaza with a minimum area of 1350m ² , facing Charlotte Street.	The modified proposal retains a 1350m ² publicly accessible plaza but relocates it to address Mackinder Street instead of Charlotte Street. See further discussion in Section 3.1.2. A Statement of Commitment has been added to ensure this condition will be delivered as part of the future Development Application for Proposed Lot 42.
c) Active frontages to the public plaza, Charlotte Street, Harp Street and new Alfred Street at ground level.	Due to the spatial requirements of the basement car park, loading docks, and building services associated with a development of this nature, it is not possible to provide activation to the entire frontage of the listed streets. Notwithstanding this the indicative design scheme demonstrates that activation can be achieved in some capacity for all of the listed frontages. See further discussion in Section 3.1.3. A Statement of Commitment has been added to ensure this condition will be delivered as part of the future Development Application for Proposed Lot 42.
d) A central pedestrian link connecting the plaza on Charlotte Street to the deep soil park on proposed Lot 41.	Consistent. A central pedestrian link has been provided through the site connecting Charlotte Street to the deep soil park on Lot 41. It is noted that the relocated Plaza, that is now located at the interface with the Park, further enhances the link. A Statement of Commitment has been added to ensure this condition will be delivered as part of the future Development Application for Proposed Lot 42.
e) Podium roof tops are to be landscaped and made accessible for residents.	Consistent. The indicative design concept (see Appendix B and Figure 4) shows that it is Australand's current intent to provide a community garden on the northern part of the podium roof (that flows off the community facility and plaza below) and a private resident rooftop garden on the southern part of the podium roof. A Statement of Commitment has been added to ensure this condition will be delivered as part of the future Development Application for Proposed Lot 42.
Residential Building Envelopes	
a) 4 residential building envelopes above the podium level with heights ranging from:	In order to break up the built form and improve the residential amenity of the dwellings, five separate building envelopes above the podium level are proposed.
i. a maximum of 3 storeys (above podium) on the Charlotte and New Troy Street elevations,	Consistent. Three storeys (above the podium) are provided on the Charlotte (in part) and New Troy Street (Sunbeam 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.	Three storeys (above the podium) are provided to the parts of Harp Street that are adjacent to detached dwellings. The buildings extend up to 5

	storeys (above the podium) at the corner of Harp and Charlotte Street near the interface of the adjoining light industrial uses.
iii. a maximum of 5 storeys (above the podium) for development fronting New Alfred Street.	Consistent. A maximum of 5 storeys (above the podium) is provided along New Alfred Street (Mackinder Street). It is noted that the storeys range from 3-5 on this elevation.
b) The upper levels along Charlotte Street are to achieve a minimum setback of 5m.	As the majority of the building massing has been relocated away from Charlotte Street the 5m setback is no longer required. See Section 3.1.4.

2.3 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***.

~~10. ESD~~

~~***Future applications for all retail development shall demonstrate that a minimum 5 Star Green Star rating (pilot or otherwise), has been achieved.***~~

Reason for Modification: The Green Star Retail Rating Tool can only be used to assess the retail as a 'Space Use' if the retail component is 80% of the 'building' GFA, which is not the case in any of the stages on the Clemton Park Village site. It is therefore not possible to satisfy this Further Assessment Requirement and deletion of the Requirement is sought. The removal of this assessment requirement will not however change Australand's overarching goal to achieve a high level of sustainability on the site or assess the sustainability performance of the future stages of the development, which is reflected in the Statement of Commitments.

There is currently no Green Star rating tool for mixed use developments and accordingly there is no alternative rating tool that could be referenced in Further Environmental Assessment Requirement No. 10.

11. Water Sensitive Urban Design

Future stages of development shall demonstrate that Water Sensitive Urban Design practices have been maximised by:

- a) *Treating stormwater runoff to NSW EPA draft best practice treatment objectives:*
 - *85% reduction in Total Suspended Solids*
 - ~~65~~ *0% reduction in Total Phosphorus*
 - *45% reduction in Total Nitrogen*
- b) *Maximising stormwater reuse through integrated water cycle management, which can reduce potable water demand and assist in achieving the above pollutant load reduction objectives.*
- c) *Preparing a Water Management Plan for the site to ensure efficient and minimised use of potable water and positive impacts for improved water quality for water leaving the site.*

Reason for Modification: As part of the Stage 4 DA, project engineers, Craig & Rhodes contacted the NSW Environmental Protection Authority's (EPA) regarding the 'Draft Best Practice Treatment Objectives', referred to in Further Assessment Requirement No. 11. The EPA advised that the document no longer exists. Subsequently, Canterbury City Council referred Craig & Rhodes to Sydney Water as the owner of the nearby Cup and Saucer Creek. Sydney Water requested that the development meet the water quality objectives set out in the Botany Bay & Catchment Water Quality Improvement Plan, 2011. The amended Further

Assessment Requirement has therefore been updated to meet those water quality objectives.

20. Access

*Future applications for development on proposed Lot 41 and proposed Lot 42 are to demonstrate that accesses to basement parking and loading and unloading areas **have been designed in consultation with the Roads and Traffic Authority** achieve compliance with the applicable requirements of AS2890.1 and AS2890.2.*

Reason for Modification: During the preparation of the DA for Lot 41, Australand's traffic engineer, Traffix, consulted with the RMS regarding the proposed access to basement parking and loading. The RMS indicated that it was not directly concerned with the access arrangements from local roads and would be satisfied with the proposed design achieving compliance with the applicable requirements of AS2890.1 and AS2890.2. The Further Assessment Requirement has been amended to provide certainty for design requirements as per current standards and to prevent this unnecessary step from having to occur for future stages.

2.4 Proposed Modifications to the Final Statement of Commitments

A new Statement of Commitment is proposed to compensate the removal of Condition A6 Built Form Controls from the Terms of Approval. Words proposed to be inserted are shown in ***bold italics***.

14. Proposed Lot 42

14.1 Off street car parking will be provided generally within a below ground parking area.

14.2 Basement areas will be used for car parking and related infrastructure only.

14.3 A central publicly accessible plaza with a minimum area of 1350m², facing Mackinder Street will be provided.

14.4 Activate frontages at ground level will be provided to:

- ***the majority of the public plaza and Charlotte Street frontages; and***
- ***part of the Sunbeam Street and Mackinder Street frontages.***

Note: Active frontages are defined as any frontage that provides some visible activity and includes retail, residential and the alike.

14.5 A central pedestrian link connecting the plaza on Charlotte Street to the deep soil park on proposed Lot 41 will be provided.

14.6 Podium roof tops will be landscaped and made accessible for residents.

14.7 Retail development will be generally in accordance the following Table:

RETAIL COMPONENT	AREA	POTENTIAL TENANT / USE
Full Line Supermarket	3,800sqm (maximum)	Coles / Woolworths / IGA.
Mini Major	1,500sqm (maximum)	Specialist grocer; discount supermarket; gym; discount pharmacy; liquor; large format green grocer.
Specialty Tenancies	2,000sqm (minimum)	Butcher; baker; chicken; fish; cafe; fruit and veg; sandwich shop; florist;

		health foods; nails; hair; barber; newsagent; restaurants; juice bar; key cutting; bank; travel agent; real estate agent; sushi; chemist; dry cleaner.
BOH / Storage / Amenities	200sqm (minimum)	Toilets; parents room; centre management / security office.

Reason for Modification: The proposed modification seeks approval to remove Condition A6 on the basis that plans submitted with this Modification illustrate the building envelopes for approval is now sought. It also seeks to amend Condition A3 to reflect the revised distribution of land uses within those envelopes. Whilst the proposed envelopes generally achieve the intent of Condition A6, there are a number of principles within those Conditions which cannot be delivered through the envelopes. Accordingly, Australand wishes to reaffirm its commitment to delivering a high quality design and ensuring the Concept Plan's built form outcomes are achieved by providing an additional Statement of Commitment in relation to these matters.

3.0 Environmental Assessment

This section demonstrates that the proposed building envelopes for Proposed Lot 42 do not compromise the merits of the approved Concept Plan. 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.

3.1 Built Form and Urban Design

3.1.1 Residential Building Envelopes

As outlined in Section 2.1 and 2.2, this Section 75W Modification seeks approval for five residential building envelopes above the podium. These envelopes reflect the intent of the design parameters set out in Condition A6 whilst making significant improvements to minimise their environmental impacts on adjoining properties and increase the amenity of the future dwellings.

The key design improvements include:

- redistributing the building mass away from the adjoining residential uses and towards the adjoining light industrial uses;
- lowering the maximum height of the future residential building by two storeys at the lowest point in the site;
- introducing an above-podium 4m setback for Building 5 to Mackinder Street and an above podium 4m setback for Building 4 to Harp Street; and
- increasing the number of residential buildings from four to five buildings, and relocating some residential GFA into the podium, whilst not increasing the total approved residential GFA.

As part of the process of developing the building envelopes for Proposed Lot 42, the design team reviewed the potential building envelopes created by Condition A6(1) in the context of the adjoining land uses. It became apparent that the envelopes could be redistributed to minimise the impact on the adjoining residential uses. Accordingly, as illustrated at **Figure 6**, the tallest residential buildings (5 storeys above the podium) are now located either at the centre of the Clemton Park Village site, at the furthest point away from the adjoining land uses, or at the corner of Harp Street and Charlotte Street where the adjoining land is currently light industrial uses. The corresponding change of locating the tallest parts of the development near the industrial uses was to lower the height of the buildings near the residential uses. Specifically, at the lowest point on the site (being the corner of Harp Street and Mackinder Street), the approved height of five storeys above the podium has been reduced to three storeys.



Figure 6 – Distribution of building mass relative to adjoining land uses

Whilst Condition A4 is proposed to be amended to permit two additional storeys on Proposed Lot 42 (refer to Section 3.1.1), this is a result of providing a building that responds to the topography and activates the podium (see discussion below). It does not equate to an increase in the effective height in the residential buildings, which continue to have a maximum height of five storeys above the podium. Where the number storeys has been increased to eight storeys (on Mackinder Street) the building has been setback 4m above the podium to ameliorate any adverse built form impacts.

Increasing the number of buildings on the site whilst maintaining the maximum residential GFA, and redistributing some of that GFA into the podium results in a number of positive outcomes related to overshadowing, the Charlotte Street setback, building separation and other SEPP 65 design principles. Specifically, the greater distribution of the building mass across the site will allow for more articulated buildings with significantly higher residential amenity. Specific environmental impacts as a result of the proposed envelope and variations to the principles set out Condition A6(1) are discussed in further detail below.

Overshadowing

As shown on the shadow diagrams at **Appendix B**, the redistribution of building envelopes will result in the majority of shadows cast by the building being cast over the adjoining industrial land rather than the detached dwellings on Charlotte and Harp Streets.

The proposed envelopes will overshadow some of the dwellings on the other side of Charlotte Street at 9am on 21 June. This shadow recedes off the properties and by 10am only shadows some front yards. By 11 am the shadow has completely moved off the properties. When compared to the envelope created by Condition A6, the proposed envelopes will result in less overshadowing of these dwellings during the morning period, noting that at 9am the Condition A6 envelope shadowed the rear of some of Charlotte Street dwellings, which no longer occurs.

The dwellings on the corner of Harp Street experience intermittent shadows over the front / side of the properties during the morning / lunchtime period. More extensive shadows occur later in the afternoon on these properties, but only after 3pm. As with the Charlotte Street dwellings, when the shadow impacts of the Condition A6 envelope are compared with the proposed envelopes, the shadow impacts on these properties is reduced throughout the afternoon period.

On balance, the shadow impacts generated by the proposed envelopes are considered acceptable as:

- they only occur for short periods of the day on the shortest day of the year;
- they generally only affect the front of the dwellings and not their rear private open space; and
- shadow impacts on adjoining residential dwellings are less than those generated by the envelope created by Condition A6.

Charlotte Street Setback

The proposed envelopes do not incorporate the upper level 5m setback to Charlotte Street included in Condition A6. The original Concept Approval distributed a significant proportion of the building mass along the Charlotte Street frontage. It is understood that this upper level setback was included in the condition to assist with minimising the built form impacts on the dwellings on Charlotte Street.

The proposed envelopes have been designed to minimise the massing on Charlotte Street and locate the tallest parts of the buildings away from the residential dwellings (see **Figure 7**). As discussed above, the revised building envelopes do not result in any additional overshadowing when compared to a development that provides the 5m setback. As a result the 5m setback no longer provides any purpose and has been removed. As a significant portion of the building massing has been redistributed internally within the site to the Mackinder Street frontage, a 4m setback is now proposed for Building 5 in order to minimise the perceived building mass (see Drawing SK058 at **Appendix B**). It is noted that retaining the 5m setback for the purposes of 'wedding caking' the building without any discernible design or amenity benefits does not reflect the best use of the land.



Figure 7 – Perspective view from Charlotte Street

Building Separation

The indicative design concept shown at **Appendix B** and **Figure 8** demonstrates that the proposed envelopes will be generally capable of complying with the building separation 'Rules of Thumb' in the Residential Flat Design Code. In addition to meeting the numeric standards, in the RFDC, further consideration in terms of visual and acoustic privacy will be considered as part of the future Development Application for Proposed Lot 42.



Figure 8 – Indicative design scheme demonstrating the potential to comply with RFDC building separation controls

Residential Amenity & SEPP 65 Compliance

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development (SEPP 65) 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 envelopes for Proposed Lot 42 clearly achieve the ten principles in SEPP 65 and the key 'Rules of Thumb' in the RFDC.

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 indicative design scheme drawings illustrate that the proposal is generally consistent with the SEPP 65 design principles and is capable of complying with the RFDC.

- **Principle 1: Context** - 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 adjoining land uses. The proposed building envelopes for Proposed Lot 42 sought in this modification are 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 additional height of the podium and redistribution of the building massing sought by this modification does not compromise the scale of the future Proposed Lot 42 development. The modified heights are generally consistent with the approved heights in terms of form and will improve the relationship in terms of scale with the adjoining residential properties by reducing the height and in some cases introducing setbacks. This improved relationship is demonstrated in Section 3.1.
- **Principle 3: Built Form** - The proposed envelopes and indicative design scheme at **Appendix A** and **B** demonstrate the proposal satisfies the desired SEPP 65 and RFDC built form outcomes. Specifically the proposed envelopes are capable of providing an appropriate built form in that they:
 - define the public domain, in particular the future publicly accessible plaza within the site;
 - contribute to the character of streetscapes by allowing for varied and interesting future buildings that respond to their context and surroundings; and
 - provide a high level of internal amenity and outlook.
- **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 redistribution of building mass provides the opportunity to deliver appropriately orientated dwellings in smaller buildings that are capable of achieving higher levels of solar access, and cross ventilation than the approved Concept Plan scheme.
- **Principle 6: Landscape** - the proposed building envelopes facilitate the provision of two landscape spaces on the roof of the podium. The landscape areas have

the potential to provide the community and residents a unique and valuable open space area within the site.

- **Principle 7: Amenity** - the proposed building envelopes are capable of delivering a high level of residential amenity. The indicative design scheme at **Appendix B** has been tested for their performance cross ventilation and 2 hours of solar access. The results demonstrate that the indicative design scheme is capable of achieving the solar access and cross ventilation rules of thumb in the RFDC (note: when incorporating design solutions such as skylights). It is noted that due to the massing and orientation, a building that complied with Condition A6 of the approved Concept Plan would struggle to be able achieve the daylight access and cross ventilation Rules of Thumb in the RFDC.
- **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. The proposed loading dock locations will ensure for safe loading and vehicular access for pedestrians moving around the site.
- **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 future residential buildings. The modification also includes provision of a GFA community facility that will meet the needs of the local community in terms of access to social facilities.
- **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 and break up the building mass at the upper part of the site.

It is evident from the above, that the proposed modification provides for a high quality residential environment and a superior built form outcome to the Concept Plan approval for Proposed Lot 42. 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 42 will provide a high quality residential design outcome.

3.1.2 Podium Height

Condition A6(1)(a) currently stipulates that future development on Lot 42 must achieve a maximum podium height of 1 storey. This condition is at odds with the realities of developing retail spaces which typically require a more generous floor to ceiling space than residential development. As discussed in Section 2.2, whilst the retail uses are themselves physically restricted to a single storey and therefore are consistent with Condition A6(1)(a), numerically the retail podium effectively has the height of two equivalent residential storeys.

The effect of the podium is compounded by Condition A6(1)(c) which requires the provision of active uses addressing the street main frontages (Charlotte Street, Harp Street and new Alfred Street). Active frontages are proposed to be provided in the form of retail / business premises uses, however residential uses are also proposed at ground level in various locations around the perimeter of Proposed Lot 42 to provide further activation. The difference in floor-to-floor heights where these residential uses are proposed result in a 2-storey podium, despite having the same effective height as a 1 storey retail podium (see **Figure 9**).

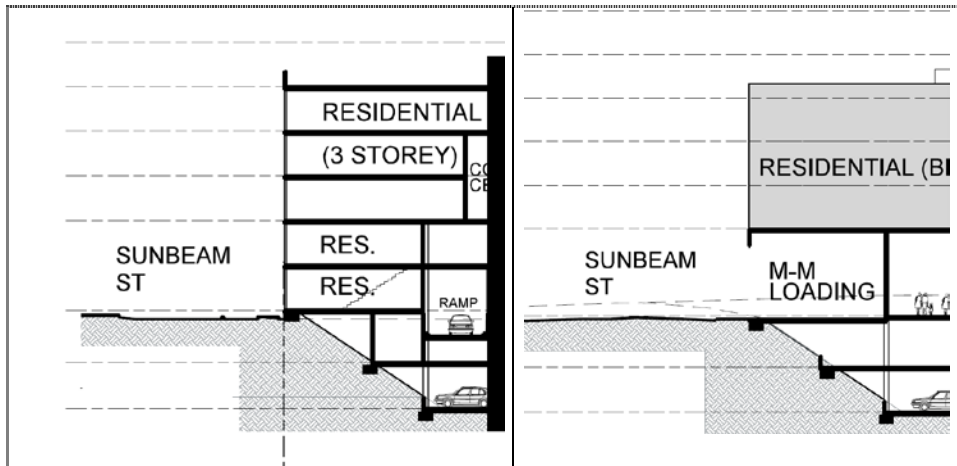


Figure 9 – Sections comparing a 1 storey retail podium with 2 storey residential podium

The height of the podium is further exacerbated when combined with the site's topography. As discussed in Section 2.2, the levels across the site change by up to 5.3m. In certain locations, specifically at the low point of Proposed Lot 42 near the corner of Harp Street and Mackinder Street, where the retail and residential uses sit above the car park entrances, the podium has a technical height of three storeys. In response to this particular site constraint, the residential building above the podium (identified as Building 5 on the plans) has been kept to three storeys, instead of the five storeys approved under the Concept Plan. Therefore despite having a 'taller' podium, the total maximum building height in this part of the site will be less than that currently permitted.

In addition where the highest podium protrusions occur on the remainder of Harp Street and Mackinder Street, the proposed building envelopes have been set back four (4) metres to their respective frontages in order to further ameliorate the height issues created by the site's topography (Building 4 and Building 5). **Figure 10** provides an illustration of the podium with the residential buildings above at the corner of Mackinder Street and Harp Street. The perspective demonstrates that despite the technical increase 'number of storeys', the proposed envelopes actually respond better to the site's topography and will in fact result in a better built form outcome than the Concept Plan Approval encourages.



Figure 10 – Perspective showing the corner

More broadly, the proposed increase in podium height will not result in any significant change to the bulk and scale of the podium or the residential buildings above it. The additional storeys within the podium do not result in any additional floor space above the approved total maximum GFA for Proposed Lot 42 in the Concept Plan.

The proposed increases to the podium height is limited to short stretches, with the majority of the future Proposed Lot 42 building complying with the 1 storey maximum podium height, notably along the Charlotte Street frontage at the key interface with the existing adjoining residential development.

In addition, the proposed increase in the maximum number of storeys along short stretches of Proposed Lot 42's street frontages will provide an appropriate scale within the context of the surrounding development and facilitate future building activation consistent with the Conditions of the Concept Approval.

3.1.3 Plaza Location

The amended location of the plaza is a significant improvement to the approved Concept Plan as it:

- provides the plaza with a northern orientation, significantly improving the amenity of the space;
- allows for the publicly accessible plaza open space to seamlessly integrate with the new publicly accessible park open space on Lot 41;
- reinforces a pedestrian friendly 'village' atmosphere within the site and specifically along Mackinder Street;
- locates the plaza closer to the centre of the site nearer to the higher density residential; and
- facilitates the layout of the other uses at ground level.

A visual perspective of the plaza in the proposed location is shown at **Figure 11**.

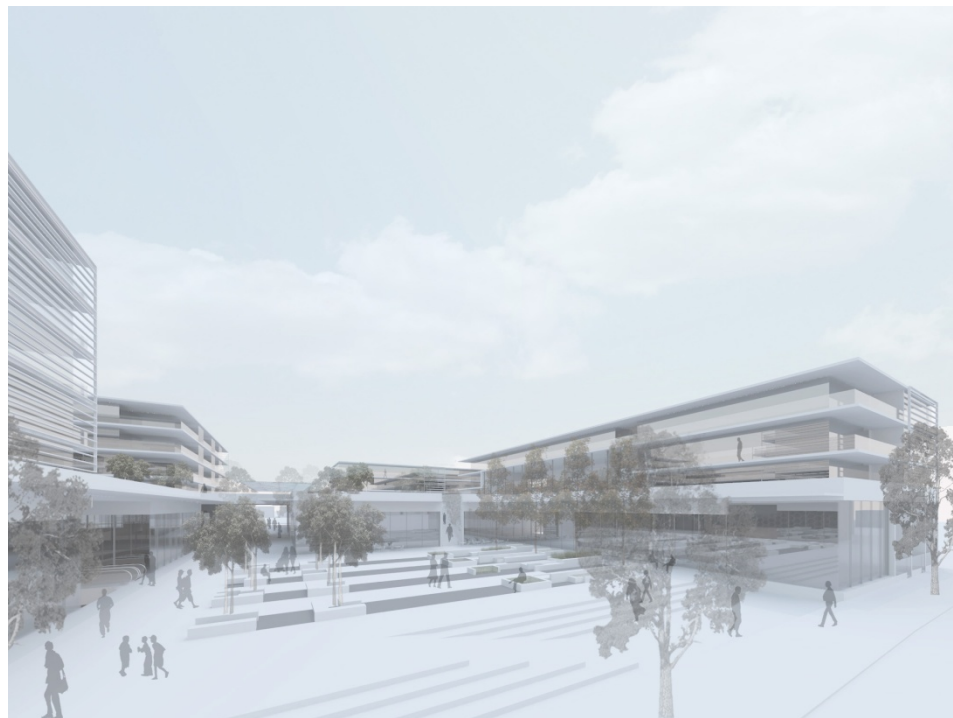


Figure 11 – Perspective of the future plaza

3.1.4 Active Frontages

Condition A6(1)(c) stipulates that the future development on Lot 42 will comprise *'active frontages to the public plaza, Charlotte Street, Harp Street and new Alfred Street at ground level'*. The condition isn't clear whether active frontages must be provided to the entire frontages or to part of the frontage or what constitutes an active frontage. However, the indicative ground floor concept at **Appendix B** demonstrates that it is not possible to provide activation for the entire length of the nominated frontages and meet the necessary car park, loading, and servicing requirements that are associated with a mixed use development of this nature.

Accordingly the subject condition has been deleted and replaced with a Statement of Commitment that commits to providing a component of activity to each of the key frontages. The level of activity has been determined based on initial feedback provided by the Department of Planning and Infrastructure and a design analysis that determined the frontages with the highest priority for activation, being Charlotte Street and the public plaza.

It is noted that as Harp Street is the lowest frontage of the site it is the logical location for the major loading dock and car park entries to be located. Whilst it will not be possible to provide a high level of activation along this frontage, locating these uses on this frontage allows for the other more important frontages such as Charlotte Street to be highly activated.

3.2 Retail Uses Mix

The Concept Plan approved a retail centre of 6,985m² to be developed on Proposed Lot 42, comprising a supermarket of 2,585m² and 4,400m² of other retail uses. As detailed in Section 2.2, this Modification is seeking approval for a slightly larger retail development than approved. Overall, a maximum 7,655m² of retail uses is proposed comprising a 3,800m² major supermarket and 1,500m² mini-major. When compared to Concept Plan approval this equates to an overall additional increase in retail GFA of 670m² and 1,215m² of additional major supermarket GFA uses beyond that already approved under the Concept Plan. Correspondingly, further investigation into the viability of commercial offices has been undertaken in accordance with Condition A3 (refer to **Appendix E**), with the approved 2,000m² floor space earmarked for future commercial uses redistributed to part retail, residential and community facility uses.

To assess the economic impacts of the additional retail GFA, Australand engaged economists, Location IQ, to prepare an Economic Impact Assessment (EIA), included at **Appendix E**. The main trade area for the proposed Clemton Park Village Centre includes around 83,360 residents and is projected to increase to 90,730 residents by 2026. There are currently no major full-line supermarkets (i.e. supermarkets 3,000m² or greater) located within the Clemton Park Village Centre main trade area. This is reflected in the low provision of supermarket floorspace provided throughout the main trade area being 100m² per 1,000 persons. This provision of supermarket floorspace is considerably lower than the Sydney and Australian averages of 249m² per 1,000 persons and 312m² per 1,000 persons respectively. It is noted that these findings are consistent with the Hill PDA report commissioned by the Department as part of its assessment of the Concept Plan.

The EIA found that even with the opening of both potential full-line supermarkets at Clemton Park and Campsie Civic Centre, the provision of supermarket floorspace will be 187m² per 1,000 persons, and therefore still lower than the Sydney and Australian benchmarks.

The additional 670m² of retail floorspace proposed at Clemton Park Village Centre is projected to record some \$8.6 million in additional sales in 2016 (or a 15.4% increase). This can be compared with retail spending growth in the main trade area

over the next four years of some \$56.4 million, meaning that the additional 405m² of floorspace will only take some 15.3% of additional spending growth in the market with all the other growth available to other retailers.

The largest impact in dollar terms is likely to occur on the Campsie Town Centre. However, even this impact is insignificant in economic terms, at 2.3%, with Campsie Town Centre still comprising over 150 retailers and the Woolworths supermarket understood to trade at very high levels. This supermarket will remain viable and anchor other specialty stores within the region. The EIA demonstrates that all other impacts on competing centres will be small, with the majority less 2% (\$1 million or less) and well within normal competitive bounds.

The EIA also notes that there are a number of positive economic impacts as a result of the proposed retail floor space, in that it will provide a high level of convenience for immediate and surrounding residents (as was the original intention of the PAC), additional jobs, as well as provide a major full-line supermarket in an area currently under supplied by supermarket floorspace.

The EIA therefore concludes that the combination of the substantial positive economic impacts serve to more than offset the limited trading impacts that can be anticipated from the Modification. Further, the impacts from the Modification will not threaten the viability of any retailers or centres throughout the surrounding area or limit the future of planned/proposed centres including, the Campsie Civic Centre proposal.

3.3 Traffic and Parking

A Transport Management and Accessibility Plan (TMAP) was undertaken for the entire Clemton Park site by Traffix during preparation of the Concept Plan. The approved TMAP outlines a strategy for managing traffic and transportation at Clemton Park Village through the progressive implementation of local road and intersection upgrades, the approved car parking rates (as reinforced through Condition A5 of the approved Concept Plan), and pedestrian and cycling initiatives.

Traffix has now provided an assessment of the traffic and car parking implications arising from the Section 75W Modification as currently proposed, which is provided at **Appendix D**. The assessment has been benchmarked against the approved Concept Plan and TMAP, Canterbury City Council's controls, and the Roads and Maritime Services' Guidelines and standards, as relevant. The following sections summarise the findings of Traffic's assessment of the proposed Section 75W Modification.

3.3.1 Traffic Generation and Access Arrangements

The Proposed Lot 42 land use mix as proposed by this Section 75W Modification will generate less vehicular movements per hour during both the AM and PM peak periods, than the Lot 42 land use mix modelled and as part of the TMAP prepared for the Concept Plan. Traffix predicts the proposed modification will generate 397 veh/hr during the AM peak period, representing a 40% reduction in trips when compared to the 666 veh/hr predicted under the approved Concept Plan. The PM peak period is expected to also be significantly reduced with 734 veh/hr predicted under the proposed modification, some 34% less than the 1,106 veh/hr predicted under the currently approved Concept Plan. The reduction in AM and PM peak trips is attributed to the replacement of the 2,000m² of commercial uses on Lot 42 with retail and community uses which are lower generating land uses. In this regard the proposed redistribution of land uses on Proposed Lot 42 is justified as the reduction in AM and PM peak trips will improve the performance of the surrounding road network, beyond that already deemed acceptable under the Concept Plan approval.

Traffic distribution is expected to remain largely unchanged from that adopted in the approved Concept Plan, with the exception of localised changes arising from the proposed access arrangements described in Section 2.1. Traffix has assessed the proposed access arrangements and concluded that they are supported on the basis that two retail access driveways:

- provide more flexibility and is sound traffic planning;
- provide a 'safety valve' in the event of an accident or emergency;
- will reduce internal queuing lengths and minimise delays which will achieve a safer and more efficient design outcome.

3.3.2 Car Parking

As outlined at Section 2.2, this modification seeks to amend the approved car parking rate to a flat rate of 4 spaces per 100m² for retail uses. The car parking rate for residential uses remains unchanged.

Application of these proposed rates to the proposed floor space mix proposed by this Section 75W Modification results in 296 spaces, compared with 248 spaces under the currently approved Concept Plan rates. The increase in proposed car parking on Lot 42 is however supported on the following grounds:

- the proposed car parking rate of 4 spaces / 100m² retail GFA is still less than the RMS Guideline parking rates for supermarkets (4.2 spaces/100m²) and specialty retail (4.5 spaces/100m²);
- the proposed parking rate is 5% lower than the RMS supermarket car parking rate and 11% less than the RMS specialty retail car parking rate, but reflects that some shoppers will be drawn from within the Clemton Park Village site and therefore the reliance on private car use can be reasonably assumed to be reduced;
- the increased parking rate will not result in increased traffic generation as demonstrated above, and in fact traffic generation will be reduced, thereby improving expected intersection performances, queuing lengths and overall traffic safety;
- the total maximum parking permitted for development on Lot 42 if developed as proposed under the Section 75 Modification, results in a maximum parking allocation of 698 spaces which is less than that permitted under the currently approved Concept Plan (747 parking spaces); and
- the revised parking rate delivers 12% less car parking spaces (or 182 spaces) compared to the approved car parking rates across the entire Clemton Park Village site.

Having regard to the above, a retail car parking rate of 4 spaces/100m² is considered to not only be supportable, but desirable on traffic planning grounds.

4.0 Conclusion

The assessment of the proposed modification to include building envelopes for Proposed Lot 42 within the Clemtown Park site indicates that the proposal is justified given the multiple influences that constrain the realisation of a development consistent with the current terms and requirements of the approved Concept Plan.

The holistic assessment of the various built form and amenity considerations demonstrate that notwithstanding a technical increase in the number of storeys at localised areas of the site, future development on Proposed Lot 42 will deliver an enhanced design outcome, minimise environmental impacts on the adjoining properties and deliver a high level of residential amenity.

The modification seeks to amend the Conditions of Approval and Further Assessment Requirements to reflect the proposed building envelopes. It also seeks to update the approved Final Statement of Commitments to include new commitments for Proposed Lot 42. 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.

The modification to the Concept Plan approval is therefore warranted in this instance.