

8 April 2013

Director General
Department of Planning & Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Ben Lusher

Dear Ben,

MP10_0110 – Concept Approval – 74-76 Belmore Street, Ryde Request for Modification to Conditions A6, C1 & C13

We act on behalf of Legacy Property in respect to the above Major Project Approval for the redevelopment of the site for residential purposes.

This submission is seeking consent for a modification to the Concept Approval issued for the site on 14 November 2012, relating specifically to the requirements of conditions A6, C1 and C13. The request is made pursuant to the provisions of section 75W of the *Environmental Planning & Assessment Act 1979*.

The purpose of the proposal is to make minor modifications to the requirements of these conditions in order to facilitate the development of the site. The proposed amendments are minor and remain consistent with the intent and purpose of the conditions while assisting the practical construction of the development having regard to the constraints of the site.

1 Background

Concept Plan approval was granted by the Planning Assessment Commission in November 2012 for the development of medium density residential development on the site, comprising a number of residential apartment buildings to be constructed over a series of stages.

The following relevant conditions are noted:

Condition **A6** of the Approval states the following:

A6. Maximum Height

The maximum height for the development shall be consistent with the Concept Plan height plans for each building as detailed in the table below.

BUILDING	MAXIMUM BUILDING HEIGHT
<i>Building A</i>	<i>Maximum RL of 45.5 metres AHD (4-7 storeys + plant)</i>
<i>Building B</i>	<i>Maximum RL of 43.5 metres AHD (2-7 storeys + plant)</i>
<i>Building C</i>	<i>Maximum RL of 43.8 metres AHD (4-6 storeys + plant)</i>
<i>Building D</i>	<i>Maximum RL of 46.8 metres AHD (Part 7/8 storeys + plant)</i>
<i>Building E</i>	<i>Maximum RL of 46.8 metres AHD (7 storeys + plant)</i>
<i>Building F</i>	<i>Maximum RL of 28.5 metres AHD (1 storey + plant)</i>

This condition establishes maximum building envelopes for the site including the location of plant.

Condition **C1 (a)** of the Approval states the following:

C1. Built Form

Future Development Applications shall demonstrate that the development achieves a high standard of architectural design incorporating a high level of modulation/articulation of the buildings and range of high quality materials and finishes. In particular:

The upper 7th storey of buildings facing Belmore and Porters street are to provide a minimum setback of 4 metres from the building façade.

Condition **C13** of the Approval states the following:

C13. Apartment Servicing

Future development applications shall demonstrate that vehicular servicing and waste receptacles and collection for the residential apartments can be accommodated within the basement car park.

This condition was imposed by the Planning Assessment Commission in response to concerns raised by Ryde Council in relation to the potential for loading/waste collection to occur on-street.

Legacy Property in association with Achieve Australia submitted a development application to Ryde Council in late March 2013 for the first stage of works (known as Blocks C and B). Blocks C and B represent stages 1 and 2 of the project as per the approved Staging Plan (Plan reference 09002-EA13-C).

2 Proposed Modification

Condition A6

It is proposed to modify Condition A6 by allowing a small projection above the nominated RL's for lift overruns. The extent of the permitted projection is to be no greater than 300mm.

It is proposed that an additional clause be included after the table outlining the maximum building heights to the following effect:

The maximum height specified excludes any lift overrun which may be permitted to project to a maximum extent of 300mm above the nominated RL as set out in the table above.

Condition C1 (a)

It is proposed to modify Condition C1 (a) by reducing the required setback of the upper floor level from 4 metres to 3 metres as follows:

The upper 7th storey of buildings facing Belmore and Porters street are to provide a minimum setback of 4-3 metres from the building façade.

This modification is sought on the basis that:

- The proposed upper 7th floor setback will achieve the intended purpose of providing a recessive element in the streetscape;

- The entire building is setback 1 metre behind the approved front setback line in the Concept Approval. The outcome being that the setback line of the proposed 7th floor level is no closer to the street than the approved Concept Plan envelope.

Condition C13

It is proposed to modify the wording of Condition C13 by removing the restriction that requires that servicing and waste collection must occur from within the basement. The proposed amended wording retains the requirement that the servicing must occur from within the boundaries of the site and from within a building, but removes the requirement that this must occur at basement level.

*Future development applications shall demonstrate that vehicular servicing and waste receptacles and collection for the residential apartments can be accommodated within the ~~basement car park~~ **building**.*

These requests are made pursuant to the provisions of section 75W of the *Environmental Planning & Assessment Act 1979*. Under Clause 12 of Schedule 6A (relating to transitional arrangements for Part 3A projects), modifications may still be made to Concept Approvals, notwithstanding the repeal of the Part 3A provisions of the Act.

3 Merits of Request

Condition A6

A minor variation is sought to the requirements of condition A6 in order to allow some flexibility in the overall envelope to accommodate small lift overrun projections. The need for this modification has arisen in respect to the planning of Building B, which while having a height of RL43.8; a 300mm tolerance is required to allow projections in the locations of the lift cores.

This is illustrated in **Appendix A** and in **Figures 1** and **2**.

This minor variation has arisen through detailed design planning and matters not fully explored at the Concept Plan stage. Specifically:

- The approved overall height of Building B is RL 43.5.
- The approved envelope diagrams indicated that the first floor of residential was to be at RL 20.50, however the natural ground level along the base of the trees in Belmore Street actually varies from RL 21.4 to RL 21.30, some 800mm higher than the proposed internal floor level.
- Similarly, the natural ground level in the common open area is approximately RL 21.7.

In order to retain the trees on Belmore Street, a protected internal floor level was designed to minimise impact on the environment due to excavation. This necessitated the first floor of residential at RL 21.45 at a minimum. To allowing for typical floor levels of 3.04 metres and a lift over run, it has become necessary to raise the lift over run to 43.80 metres.

The impact of this amendment is considered to be negligible in terms of impact on the surrounding locality as demonstrated in the streetscape perspective drawings.

FIGURE 1 – LOCATION OF HEIGHT PROJECTIONS

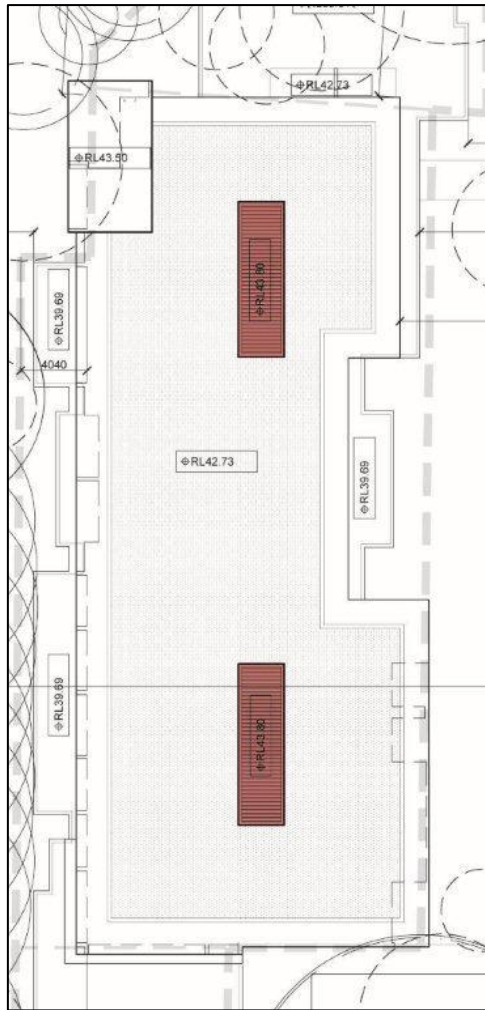
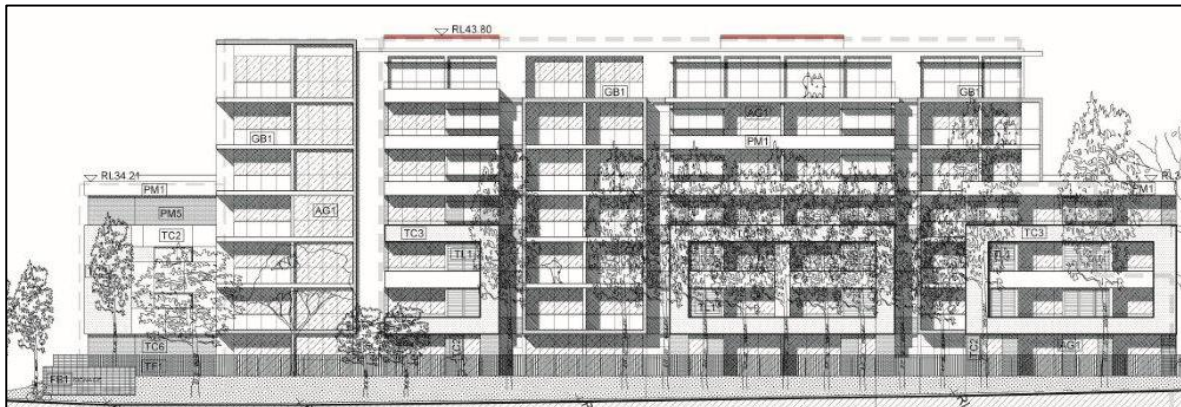


FIGURE 2 – STREETSCAPE ELEVATION



Given the remainder of Building B remains within the prescribed building height, it is not considered that the additional 300mm to facilitate the lift overrun will result in any adverse visual impact in that the minimal overrun is well setback from the street. The additional 300mm to allow the lift overrun at Building B will result in both Building B and C have the same maximum height of RL of 43.8 metres AHD.

Condition C 1(a)

The intent of Condition C 1(a) of the Concept Approval is to achieve a recessive upper floor level element when viewed from the public realm. The condition establishes a 4 metre minimum setback measured from the building façade line. Through detailed design planning it is evident that achievement of the required minimum 4 metre setback measured from the building façade for the upper floor level is difficult to achieve without unreasonable compromises in terms of unit planning and building efficiency.

The extent of variation to the setback condition is illustrated in the plans forming part of **Appendix A**.

Moreover, through an assessment of impact, it is submitted that:

- The proposed upper 7th floor setback will achieve the intended purpose of providing a recessive element in the streetscape;
- The entire building is setback 1 metre behind the approved front setback line in the Concept Approval. The outcome being that the setback line of the proposed 7th floor level is no closer to the street than the approved Concept Plan envelope.

These matters are addressed in further detail as follows.

The montage prepared for the development application for Stage 1 of the project illustrates the streetscape impact along Belmore Street. This is presented in **Figure 3** without the existing trees for clarity (which are to be retained as part of the project).

The montage illustrates that the proposed 3 metre setback of the upper floor level from the building façade achieves an upper level with recessive qualities, consistent with the intent of the condition.

FIGURE 3 – STREETScape VIEW FROM BELMORE STREET – 7TH STOREY SET BACK 3 METRES (WITHOUT TREES)



FIGURE 4 – STREETScape VIEW FROM BELMORE STREETS – 7TH STOREY SET BACK 4 METRES (WITHOUT TREES)



Figure 4 above demonstrates the perspective of Building B from Belmore Street with the 7th floor positioned that approximates the 4 metre setback. When the proposed 3 metres setback is compared with a 4 metre setback as shown when comparing **Figure 3** and **4**, it is evident that the visual impact of any recessing of the top floor is largely comparable and not considered to result in a negative visual impact when viewed from the public domain.

FIGURE 5 – STREETSCAPE VIEW FROM BELMORE STREETS – 7TH STOREY SET BACK 3 METRES (WITH TREES)



With the trees shown in **Figure 5** above, there is no visible difference between the 3 metre setback proposed and the 4 metre setback, as all is screened by the substantial trees.

It is also important to highlight that the proposed variation to the setback condition does not result in the built form extending closer to the street boundary than currently approved. This is a result of siting the new built form, an additional 1 metre further setback from Belmore Street in comparison to the Concept Approval.

In essence, this reflects that the amendment sought is not driven by a 'grab for additional floor space', rather careful consideration of the practical layout and composition of apartments across multiple levels as well as meeting consumer demands in terms of unit size and mix and design efficiency.

Condition C13

Condition C13 was imposed by the PAC in response to concerns expressed by Council regarding the potential impacts associated with on-street loading. The PAC's determination report stated the following:

With respect to the Council's concern of service vehicles to the site the Commission agrees that this is appropriate given the number of units proposed. Accordingly the determination requires that vehicles to service the residential apartments are to be accommodated in the basement area.

While the PAC required that off-street loading provision should occur within the basement area, this direction was given without the benefit or consideration of the potential options that may otherwise achieve the objectives of providing off-street loading facilities.

It is our submission that the primary objective with the imposition of condition C13 is to achieve off-street loading given the size of the development. While the provision of basement loading facilities is one option to achieve a suitable design solution, it is by no means the only approach by which a suitable design solution can be achieved.

The objectives of the condition can be satisfied by an alternative design solution as presented in the first stage DA being submitted to the City of Ryde, however given the prescriptive nature of the wording of the condition, a Section 75W modification is required to the Concept Approval.

The DA plans attached showing the proposed loading area contained within the building envelope demonstrate that an effective design solution can be achieved without mandating that it must be in basement. Important factors that inform this include:

- The provision of a landscape zone along the street frontage adjacent to this service area which will ensure that it is visually attractive from the street;
- The design of the access door being accessed from the basement ramp rather than directly from the street frontage which will reduce visibility of the service area from the public realm.

The requirement for all service vehicles to be limited to the basement has significant practical constraints on the proposal including access for contractors to a basement level and displacement of visitor parking from the B1 level, which will reduce the convenience and accessibility.

FIGURE 6 – PROPOSED LOCATION OF LOADING DOCK AND GARBAGE ROOMS

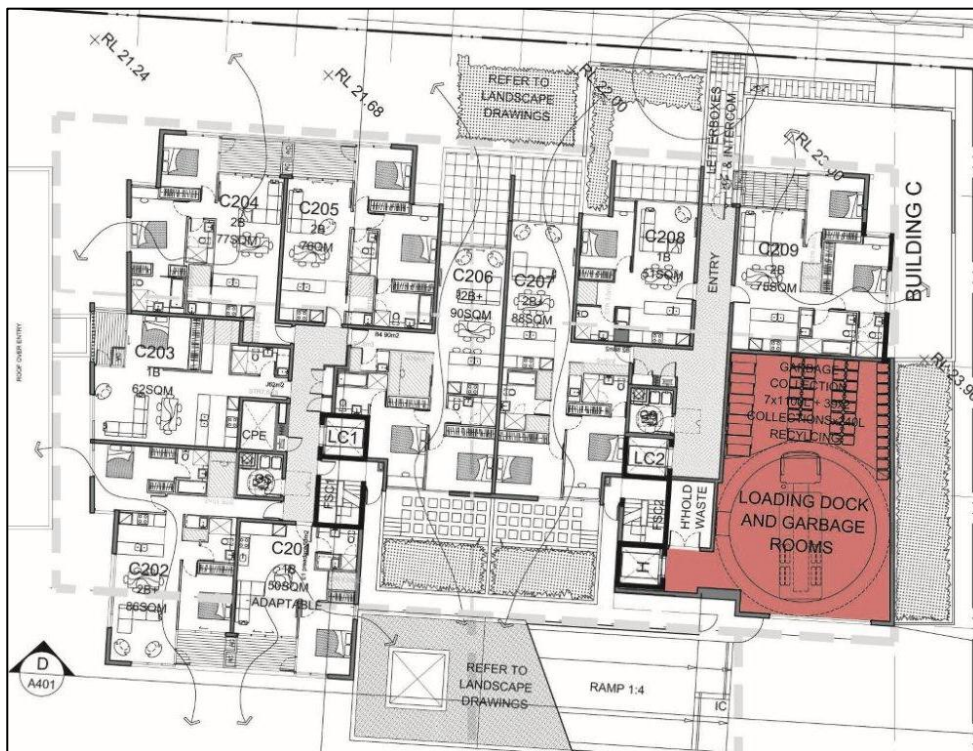
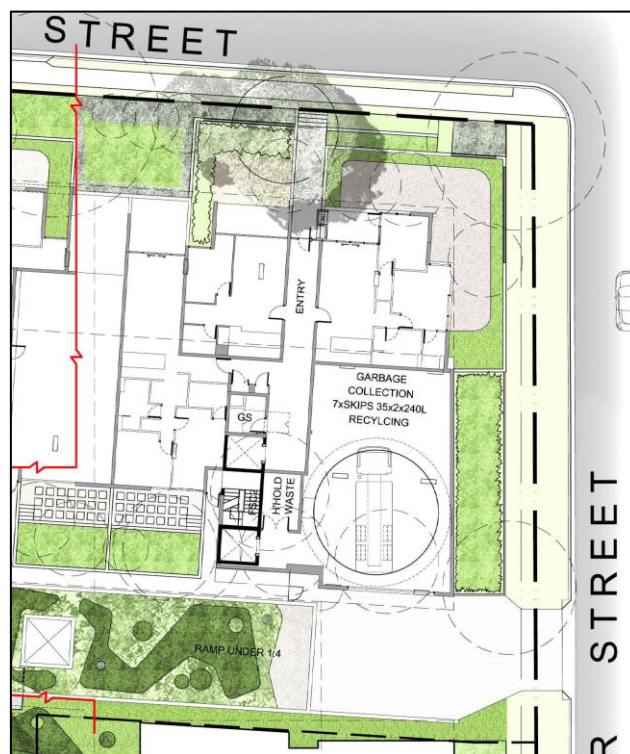


FIGURE 7 – EXTRACT FROM LANDSCAPE DESIGN ILLUSTRATING LANDSCAPE SCREENING ALONG THE SITE FRONTAGE



The plans submitted at **Appendix A** demonstrate that an effective design solution can be achieved without mandating that it must be in basement.

Conclusion

The proposed amendment seeks to amend Conditions A6, C1 (a) and C13 to improve the overall functionality of the proposed residential flat buildings.

The intent of the Conditions A6, C1 (a) and C13 will continue to be observed and the proposal will remain consistent with the original objectives of the Concept Approval.

We look forward to your earliest review of this request. A copy of this request has also been forwarded to Ryde Council for their information and comment as appropriate.

Yours sincerely,



Tim Blythe
Regional Director