



**Section 75W Application to Modify Concept Approval MP09_0216
Shepherds Bay**


On Behalf of Holdmark Property Group

November 2013

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APPENDIX	DOCUMENT	PREPARED BY
1	Updated Indicative Construction Staging Plan	Robertson + Marks
2	Updated Indicative Concept Plan Storeys Plan	Robertson + Marks
3	Open Space Area Plan	Robertson + Marks
4	Revised Landscape Masterplan Revised Stage 1 Landscape Plan	Place
5	Revised Draft Statement of Commitments dated November 2013	Holdmark Property Group
6	ESD Target Clarification Letter	Integro Consulting
7	Shepherds Bay Concept Approval MP09_0216	-

Job No	Description of Issue	Prepared By / Date	Reviewed by / Director	Approved by Director
13034	Draft	HP/28.10.13	SF/28.10.13	 Sue Francis, Executive Director
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Note: This document is preliminary unless it is approved by Director of City Plan Strategy and Development Pty Ltd.				

1 INTRODUCTION

This Report has been prepared by City Plan Strategy and Development (CPSD) on behalf of Holdmark Property Group for an amendment to Concept Approval MP09_0216 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (“EP&A Act”). MP09_0216 for a mixed use residential, retail, commercial development including: -

“Use of the site for a mixed use development including residential, retail, commercial and community uses incorporating:

- building envelopes for 12 buildings incorporating basement level parking;*
- infrastructure works to support the development including:*
- upgrades to the local road network;*
- stormwater infrastructure works;*
- publically accessible open space and through site links; and*
- pedestrian and cycle pathways.”*

This application seeks approval for amendments to several conditions of consent to clarify aspects of the Concept Approval in order to allow for a more logical construction process and to improve the overall built form of the redevelopment of Shepherds Bay. This includes revising the indicative staging of the 10 buildings and clarification of the delivery of certain infrastructure works to which certain stages relate. The location and timing of the delivery of the Community Facilities as required by Condition 18 is also proposed to be revised to allow flexibility in its location(s).

The proposal also seeks to update the building storey plan to reflect the approved storeys for Stage 1 and to allow the building form of the Stage 4 development (formerly Stage 2 at the corner of Belmore Street and Constitution Road) to comprise a six storey corner feature which will improve the rhythm of the physical form of the building in relation to the public domain.

This application seeks to provide basement levels which are responsive to the sloping topography of the site where the development provides a positive relationship with the public domain through appropriate design techniques, and in the case of Stage 1, the provision of additional apartments to improve the relationship of the development at the public domain level. Moreover, the proposal seeks the addition of a condition of consent to enable future Development Applications to be assessed by the Consent Authority which allows additional storeys for buildings on steeply sloping topography where these additional storeys may be required to activate the ground level.

Clarification is also sought in relation to the wording of several conditions of consent in relation to the allowable height of basements above ground level given the sloping topography of the site, allowing for appropriately placed and shared basement parking levels, the treatment of service infrastructure and requirements of the ESD targets. This application also seeks the rewording of Condition 21 *Residential Amenity* to allow for appropriate design techniques to achieve a high level of residential amenity, where solar access is unable to be achieved for future Development Applications.

The proposal also seeks to modify Condition 1 *Design Excellence* in relation to the Signature Building at the Church Street site to allow for the outcome of the Design Excellence process to

be approved by the Consent Authority without the need to modify the Concept Plan's approved height and setback plan. The purpose of this approach is to encourage an interesting architectural expression and landmark building.

These modifications are reflected in the Updated Draft Statement of Commitments which accompany this application and are provided at **Appendix 5**.

This application, whilst seeking amendments to the proposal, is essentially the same development as approved, and provides a concept design scheme which is responsive to the particulars of the site and results in a positive and high quality design outcome which serves the interests of the locality.

These modifications have been discussed with Council prior to submitting this application.

Further details of the modifications are outlined in **Section 3** of this report.

The purpose of this report is to describe the above amendments in detail; review the applicable planning regime relating to the proposal; assess the degree of compliance; and where impacts are identified, propose appropriate measures to mitigate any harm to environmental amenity.

Section 2 of this report provides a detailed description of the site and background information in relation to the existing approval for the site.

Sections 3 and 4 outline the proposed modifications to the approved Concept Approval and assesses the environmental impacts of the proposal, addressing where relevant the applicable statutory context.

Section 5 describes the proposed amendments to the conditions of consent.

Section 6 concludes that the proposed modifications are reasonable and appropriate and it is recommended that the application be approved.

This report has been prepared in conjunction with the updated Indicative Staging Plan, updated Indicative Concept Plan Storeys Plan and updated Open Space Plan prepared by Robertson + Marks which can be found at **Appendices 1, 2 and 3**. An updated Landscape Masterplan prepared by Place is provided at **Appendix 4**. The proposed modifications are reflected in the updated Statement of Commitments prepared by Holdmark Property Group and provided at **Appendix 5**. A letter of clarification prepared by Integro Consulting which addressed the interpretation of ESD Targets is also provided at **Appendix 6**.

2 BACKGROUND

2.1 The Site

The site is a key mixed use redevelopment precinct which is located on the Shepherd's Bay Foreshore in Ryde and Meadowbank. The site is located approximately 14 kilometres north-west of the Sydney CBD and is within the Ryde Local Government Area (LGA).

The main portion of the site forms an amalgamated redevelopment precinct with direct frontage to Bowden Street, Constitution Road, Belmore Street and Rothesay Avenue. The main site is also dissected by Nancarrow Avenue and Hamilton Crescent. The site also consists of the 'Church Street site' which is located to the south-east of the main site which is bound by Church Street, Well Street, Waterview Street and The Loop Road. The total combined site is approximately 6.7 hectares as demonstrated in **Figure 1** below.

The site benefits from being in the vicinity of regular rail, ferry and bus services. The main portion of the site is within 350 metres to 1km walking distance from the Meadowbank Railway Station and the Village Plaza and 250 metres to 1km from the Meadowbank Ferry Wharf. The Church Street site is also within 200m of bus services on Church Street, and approximately 1km from the railway station and ferry wharf.

The site forms part of the former Meadowbank Employment Area which is experiencing a period of transition from manufacturing and light industrial uses towards the development of a high density mixed use neighbourhood. The site and surrounds is the subject of previous and ongoing improvements to prepare the site for its future built form. These improvements include the demolition of vacant industrial buildings, contributions to Rail Corp for improvements to the Railway Station and contributions to Ryde Council for the purpose of improving the stormwater management systems for the benefit of the greater locality.

The site has a varied topography which falls to the Shepherd's Bay foreshore of up to 18 metres, as well as a fall of approximately 10 metres from the east to west along Constitution Road. The Church site is relatively level.



Figure 1: Landscape Masterplan of the Shepherds Bay redevelopment site prepared by Place Planning dated June 2013 which identifies the building forms and provision of open space in response to Condition B1 of the Concept Approval

2.2 Surrounding Land Uses

The Shepherds Bay locality is historically characterised as a light industrial and manufacturing area. The area is the subject to ongoing transition to create a varied mix of land uses with an emphasis of higher density residential dwellings. **Figure 2** below provides an analysis of the mixed use and residential developments in Shepherds Bay and their relationship with the Concept Approval site.

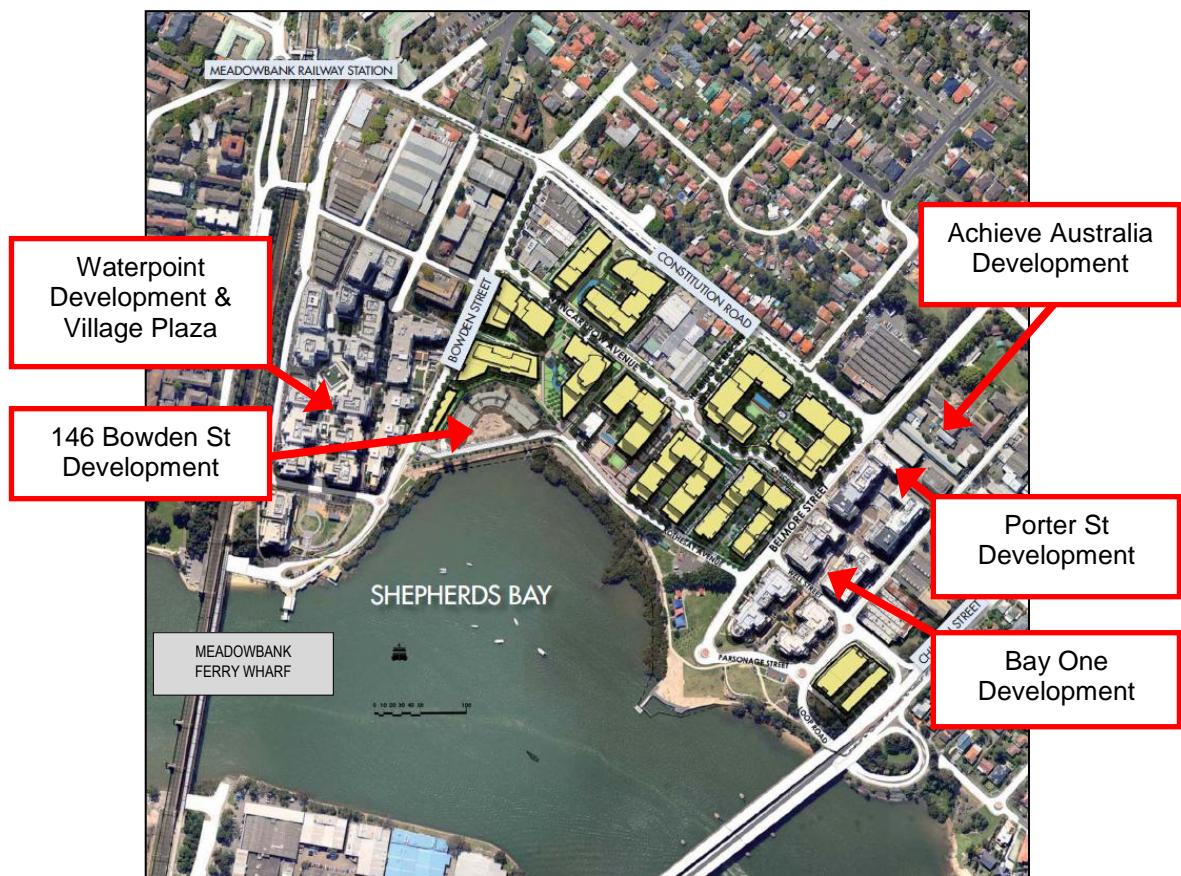


Figure 2: Aerial view of the site and locality. The subject site is identified in yellow. This Figure also identifies the existing and approved mixed use developments in the Shepherds Bay area (Source: R+M - the PPR submitted with the Shepherds Bay Concept Approval MP09_0216)

Meadowbank Employment Area

The site is part of the Meadowbank Employment Area and is identified within State policy (Metropolitan Strategy and Draft Inner North Sub-regional Strategy) as a *Small Village* which benefits from a local shopping centre with two supermarkets and a number of retail outlets as well as a small strip of shops at the railway station. These shops are easily accessible by foot being within 400m of the main site. The maximum distance between the site and the railway station or ferry wharf is 1km. Bus services are also available from Church Street, Victoria Road, Constitution Road and Bowden Streets.

The draft strategy set targets of an additional 60,000 jobs and 30,000 new dwellings for the subregion by 2031. The Metropolitan Plan sets revised targets for the subregion of an additional 62,000 jobs and 44,000 dwellings by 2036.

A key driver of the Draft Strategy is to achieve increased residential densities within the walking radius of smaller local centres and public transports. The introduction of high density residential development in a locality with a high degree of accessibility to transport, services and employment presents a strong contribution to the dwelling target for Ryde LGA as updated by the Metropolitan Plan and satisfies the key directions and will positively contribute to meeting the targets within the Draft Strategy.

Although the site is located within the Meadowbank Employment Area, it is acknowledged that this area is no longer characterised by employment, light industrial and manufacturing land uses. The local planning strategy guides the redevelopment of this area for the purpose of providing modern built forms which are sensitive to the topography and characteristics of the site which are predominantly suited to high density residential forms. This provides a strong contribution to dwelling yields in a setting which is highly accessible to public transport routes and the redevelopment of the streetscape and character of this former employment area.

2.3 Approved Concept Plan Scheme MP09_0216

The approval the subject of this application is the Concept Approval MP09_0216 approved by the Planning Assessment Commission on 6 March 2013 which is provide at **Appendix 7**. MP09_0216 is for a mixed use residential, retail, commercial development including: -

“Use of the site for a mixed use development including residential, retail, commercial and community uses incorporating:

- *building envelopes for 12 buildings incorporating basement level parking;*
- *infrastructure works to support the development including:*
- *upgrades to the local road network;*
- *stormwater infrastructure works;*
- *publically accessible open space and through site links; and*
- *pedestrian and cycle pathways.”*

It is noted that Part B of the Concept Approval required various amendments to the Concept Plan as follows: -

“Amended Concept Plan

B1 *The Concept Plan shall be amended to:*

- (a) comply with the modified maximum heights (as per plans in Schedule 5), setbacks etc. under this approval and the project application approval for Stage 1 (MP09_0219). The maximum building height applies to either the number of storeys or RL levels, whichever is the lower;*
- (b) provide at least one contiguous open space, of a minimum of 3,000m², to accommodate both active and passive recreational needs. The open space shall include deep soil area and receive a minimum of 2 hours of sunlight to a minimum of 50% of the area on 21 June;*

- (c) provide a public domain plan which illustrates the proposed public domain treatment including streets and setback areas, landscaping, lighting and public and communal open spaces and which is in accordance with Ryde City Council's Public Domain Technical Manual;
- (d) increase the width of the proposed through site links/view corridors to a minimum width of 20m;
- (e) provide an integrated water sensitive urban design (WSUD) strategy for the entire site; and
- (f) include a pedestrian and cycleways plan that demonstrates that the proposed routes are both viable and integrated with Council's plans for the surrounding area.

The amended concept plan, demonstrating compliance with these modifications shall be submitted to, and approved by, the Director General prior to the issue of the first construction certificate.

Sustainable Travel Plan

B2 Prior to issue of an Occupation Certificate for Stage 1 or prior to the submission of a Development Application for future stages (whichever occurs first), a Sustainable Travel Plan for the Concept Plan site shall be submitted to and approved by the Council. Options for provision of a Car Sharing Scheme for the site are to be explored and incorporated into the Sustainable Travel Plan as is a Parking Management Strategy."

On 24 June 2013 the Department of Planning and Infrastructure confirmed their satisfaction with condition amendments and thus discharged Condition B1 of the Concept Approval MP09_0216. For completeness, this proposal seeks to update the plan references in Condition A2 to reflect these revised plans as a result of Condition B1. Refer to Section 4 of this report for details of the proposed modifications.



Figure 3: Approved Indicative Staging Plan (Source: PPR dated July 2012)

2.4 Approved Stage 1 Project Application MP09_0219

The site also benefits from a Stage 1 Project Approval (MP09_0219). This approval relates to No. 41 Belmore Street Ryde which fronts Nancarrow Avenue, Belmore Street and Rothesay Avenue. Stage 1 was approved by the Planning Assessment Commission on 6 March 2013 for a residential flat building development including: -

- “Construction of two attached residential flat buildings between 3 and 10 storeys in height;*
- basement car parking over three levels;*
 - landscaped communal open space between the two buildings;*
 - a new landscaped publicly accessible foreshore link from Hamilton Crescent to Rothesay Avenue;*
 - stormwater and infrastructure / utility works.”*

As a result of the recommendations from the Department of Planning and Infrastructure, the Concept Approval was approved by the Planning Assessment Commission.

In association with the Concept Approval (MP09_0216) the approved scheme required the introduction of extensive public open spaces, drainage reserves and through site links which are intended to be publicly accessible and maintained in private ownership, and the reorganisation of the site to provide at least one contiguous open space, of a minimum of 3,000m². Condition B2A states that this contiguous open space area is to be provided prior to the issue of the Occupation Certificate for Stage 1.

It is noted that Part B of the Concept Approval required various amendments to the Concept Plan as follows: -

“Design Modifications

B2 Prior to the issue of the first Construction Certificate, plans and specifications demonstrating compliance with the following shall be submitted and approved by the Director General.

- (a) Built form modifications as follows:*
- (i) deletion of 1 storey (Level 6) from the north-eastern block (all apartments accessed by Lobby 4) on Belmore Street;*
 - (ii) deletion of 2 storeys (Level 4 and 5) from the mid-block (all apartments accessed by Lobby 5) on Belmore Street;*
 - (iii) deletion of 2 storeys (Levels 3 and 4) from the south-eastern block (all apartments accessed by Lobby 6) on Belmore Street;*
 - (iv) deletion of 2 storeys (Levels 10 and 11) from the northern block (all apartments accessed by Lobby 3) on Hamilton Crescent;*
 - (v) provision of a minimum setback of 10 metres to Levels 2, 3 and 4 behind the façade of the 5 levels below to Rothesay Avenue;*
 - (vi) deletion of below ground level apartments GF-14 and GF-15 fronting Hamilton Crescent;*
 - (vii) provision of a minimum 18 metres separation between the north and north-eastern blocks (accessed by Lobbies 3 and 4) on Levels 3, 4 and 5;*
 - (viii) provision of light wells/sky lights to all apartments on the uppermost levels of the building which do not achieve 2 hours solar access to living rooms;*

- (ix) increased setback of the basement, upper basement and lower ground floor levels to be consistent with the ground floor setback from the Hamilton Crescent boundary and provide a deep planting zone within the setback;*
- (b) parking for the development at the following rates:*
 - (i) 0.6 – 1 space per 1 bedroom apartment;*
 - (ii) 0.9 – 1.2 space per 2 bedroom apartment;*
 - (iii) 1.4 – 1.6 spaces per 3 bedroom apartment;*
 - (iv) 1 visitor space per 5 apartments;*
 - (v) 1 secure bicycle locker per 10 car parking spaces (in addition to outdoor bicycle racks); and*
- (c) provision of increased sill heights (minimum of 1.5 metres above the finished ground level of the apartment) to north-east facing living areas and bedrooms of Apartment 4-06 and south-west facing bedrooms of Apartment 3-18.”*

On 8 August 2013 the Department of Planning and Infrastructure confirmed their satisfaction with condition amendments and thus discharged Condition B2 of the Project Approval MP09_0219.

3 PROPOSED MODIFICATIONS AND ENVIRONMENTAL ASSESSMENT

3.1 TIMING OF THE CONSTRUCTION PHASING

Indicative Staging

The documents submitted and approved with the Concept Approval detail that the plans represented an indicative staging program. The staging of the 12 buildings are referenced as *Stages 1 to 10* as demonstrated in **Figure 4** below.



Figure 4: Approved Indicative Staging Plan (Source: Amended Concept Plan to comply with Part B of the Concept Approval MP09_0216 dated June 2013)

However, the conditions of approval adopted, in part, the indicative stages and incorporating them in conditions of consent assuming a linear and sequential construction.

The proponent has recently undertaken detailed consideration and planning of the actual demolition and construction processes for the redevelopment of the Concept Plan site. A key driver of this planning is based on an emphasis on delivering the project in an organised manner which delivers the infrastructure and open space areas without risking their potential damage during the future development processes of the subsequent Stages of the Concept Plan.

This is particularly the case with regard to the provision of the contiguous open space area which, according to the current conditions of consent in the Project Approval (MP09_0219), are required to be provided prior to the issue of the Occupation Certificate of Stage 1. Should this be the case, the quality of the open space area, which adjoins the buildings currently known as Stages 3 and 6, may be at risk given the standard demolition and construction processes involved such that Stages 3 and 6 will be unable to be accessed for construction purposes via Rothesay Avenue which will be constrained by the new open space area.

Due to the significant slope of the site to the foreshore, construction access via Rothesay Avenue is a pertinent requirement to facilitate the construction of the buildings in Stages 3 and 6. Should the foreshore area contain the completed open space area, construction access will be substantially limited.

This timing is in keeping with the Statement of Commitments approved with the Concept Approval, which provides for the New Central Foreshore Plaza to be delivered as part of Indicative Stage 6.

The updated Indicative Staging Plan is provided in **Figure 5** below (also refer to **Appendix 1**) and demonstrates that the prioritisation of the construction of the Stage 1 building (Project Approval MP09_0219) is to be maintained, followed by the buildings along the foreshore, re-labelled Stages 2 and 3. The sequencing of the construction of the buildings generally follows the indicative staging referenced in the Indicative Staging Plan approved in the Concept Approval. The former Stage 5 is to be undertaken concurrently with the main site. However this Stage is now labelled 'Stage A' given the timing of the delivery of this site is independent of the main site and its associated infrastructure works.



Figure 5: Proposed indicative construction phasing

It is also recognised that the future DAs to be lodged have the potential to comprise more than one building, the result of which is to deliver the buildings, parking arrangements and associated infrastructure in a more effective manner.

The revised indicative Staging reflects a more efficient and logical construction process. This application seeks to modify the references to the Stages in the Conditions of Consent of the Concept Approval (MP09_0216) to reflect the updated staging references. These proposed modifications to the conditions of consent are identified in detail in **Section 3.4** below.

The proponent commits to satisfying the requirements of the Concept Approval relative to each stages as specified in the Conditions of Consent, however seeks to update the references to each stage to reflect the updated Indicative Staging Plan.

3.2 BUILDING HEIGHTS TO CONSTITUTION ROAD

The original design scheme for the Concept Application sought to provide a built form which creates an architectural element with a distinct street edge and enhances the sense of identity for this former light industrial area. This design scheme features a terrace style development for the site which starts with providing a 5 storey built form with an additional pop-up storey which supports the east-west corridor along Constitution Road to the north of the site.

This design principle is demonstrated in **Figure 6** below: -

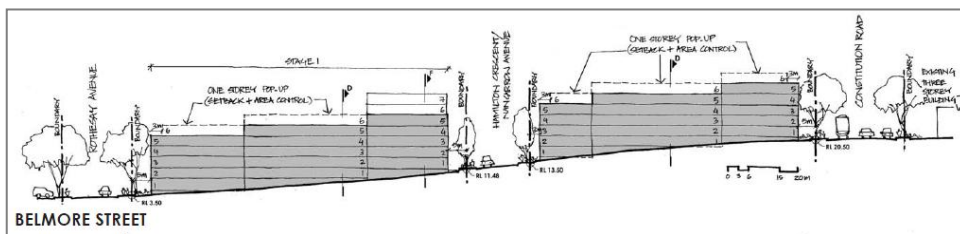


Figure 6: Extract from the EA demonstrating the built form pattern of the proposed terrace design principle which presents as a 5 storey building element at the high storey of the site as viewed from Constitution Road with a 6 storey corner element (right).

This preferred design is responsive to similar multi storey apartment buildings in the Meadowbank precinct. The proposed building heights and building footprints allow for the retention of existing view corridors and enhancing the desired future character of Meadowbank.

However, in response to concerns raised by DoPI and Council, a PPR was submitted which rationalised the number of storeys. This included reducing the height of the buildings which front Constitution Road to 5 storeys, with the exception of an eight storey element of the corner of Belmore Street and Constitution Road, being the north-west feature element of the site.

The Concept Approval reiterated this reduction in the number of storeys, through the application of Condition 3 which states the following: -

“Built Form

3. Notwithstanding the approved maximum building heights in RL, future Development Applications shall demonstrate that:

- (a) buildings along Constitution Road are a maximum of 5 storeys; and
- (b) the southern building element of Stage 7 is a maximum of 5 storeys.”

The wording in Condition 3 above however restricts the height of **all** buildings along Constitution Road to only five storeys. However, this condition does not reflect the plan approved by the PAC which accompanies the Concept Approval: ‘Plan 1 Maximum Number of Storeys above Ground Level (finished) as approved by the Planning Assessment Commission (March 2013)’ which is reproduced in **Figure 7** below. This approved plan demonstrates that the corner portion of the site is permitted to be constructed to 6 storeys in height.

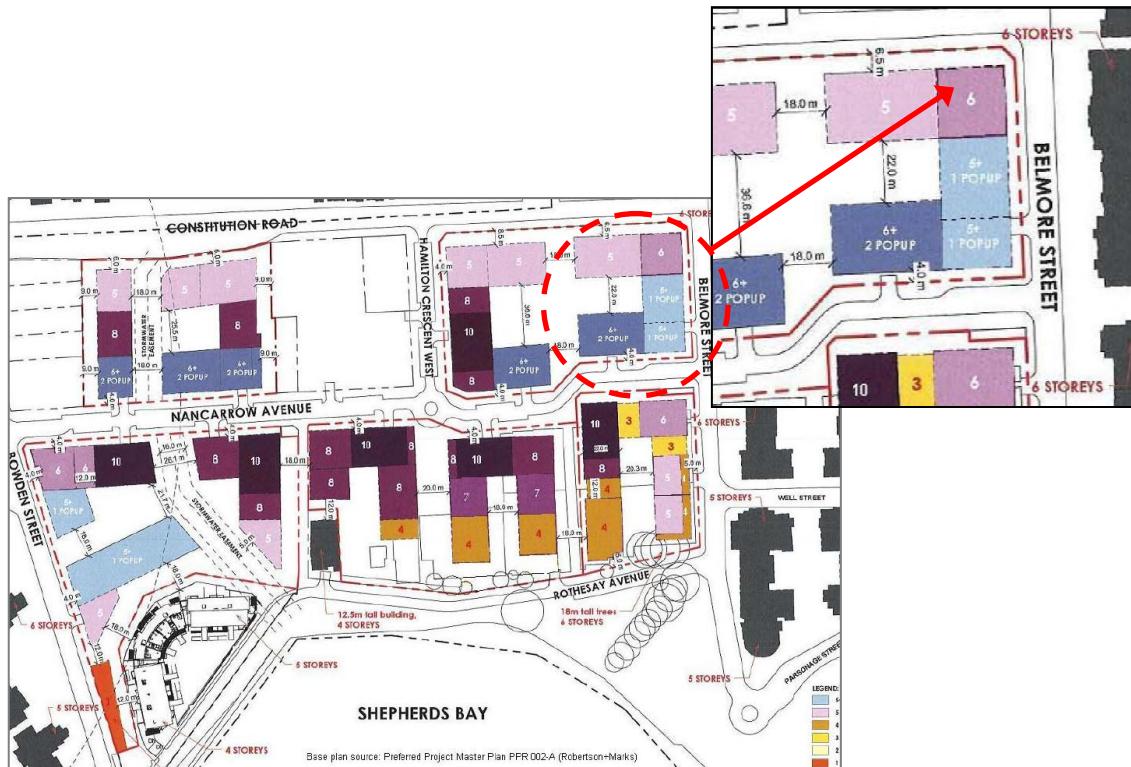


Figure 7: Extract from the Concept Approval MP09_0216 - Plan 1 Maximum Number of Storeys above Ground Level (Finished) as Approved by the Planning Assessment Commission (March 2013).

For clarification purposes, it is requested that this condition is modified to allow for the corner element at Belmore Street and Constitution Road to be maintained at the full 6 storey height, as per the 'Plan 1 Maximum Number of Storeys above Ground Level (Finished) as Approved by the Planning Assessment Commission (March 2013)' Plan approved by the PAC.

Given the discrepancy between the PAC approved Plan and Condition 3, it is understood that Condition 3 *Built Form* omitted taking into consideration the corner element of this building. However, the maximum RLs for the site were specified in the Concept Approval in 'Plan 2 Maximum RL Height Controls as Approved by the Planning Assessment Commission (March 2013).' This site was designated a maximum RL 41.90 for the corner element of the building.

The retention of this 6 storey element provides significant benefits when compared to a built form which is reduced to 5 storeys, to reflect the maximum storey height for the length of Constitution Road. These benefits are clearly reflected as follows: -

- The creation of a feature element which defines the Concept Plan site, especially given this is a main entry point to the site and surrounding road network;
- The creation of a feature element which is supported by the existing 6 storey development on the opposite side of Belmore Street, providing an equal and balanced urban feel on both sides of Belmore Street (as demonstrated in **Figure 8** below);
- The 6 storey element is for a minor portion of the overall building form which allows for improved building articulation and modulation and breaks up the built form of the northern elevation of the building which has a width of approximately 65 metres. This 6 storey

corner element introduces a vertical element to the building which is a positive visual asset;

- The proposed 6 storey element will not result in any additional overshadowing impacts given the built form is permitted to be built to a height of RL 41.90 and therefore will not unduly impact on the public domain or neighbouring properties; and
- The provision of 6 storeys is capable of being provided within RL 41.90 for the corner portion of the building, as demonstrated in **Figure 8 and 9** below.

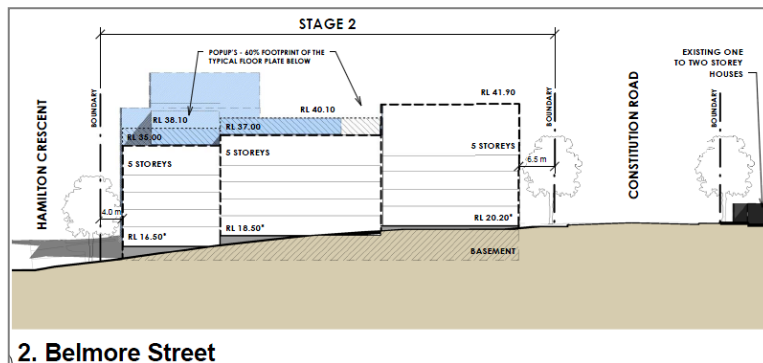


Figure 8: Extract of the Amended Concept Plan to comply with Part B of the Concept Approval (MP09_0216) dated June 2013. This extract demonstrates that the 6 storey corner element is capable of satisfying the maximum RL 41.90 and maintains the general principle of providing a terraced built form for each building and throughout the Concept Plan site.

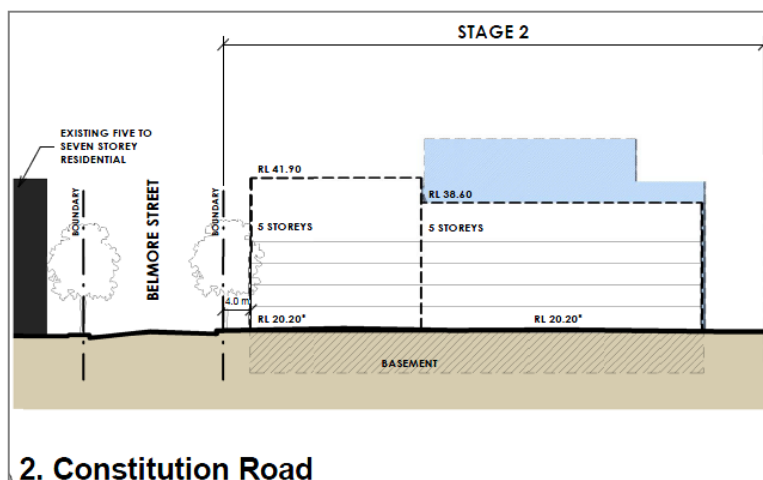


Figure 9: Extract of the Amended Concept Plan to comply with Part B of the Concept Approval (MP09_0216) dated June 2013. This extract demonstrates that the 6 storey corner element is capable of satisfying the maximum RL 41.90 and provides a balanced built form with the existing apartment building on the other side of Belmore Street (left).

For the reasons above, it is considered appropriate for the corner element of the Stage 2 building (proposed to be relabelled Stage 4) to retain the 6 storey corner element, and for Condition 3 to reflect this preferred building form. An updated Indicative Concept Plan Storeys Plan is provided at **Appendix 2**.

3.3 BASEMENT LEVELS ABOVE GROUND LEVEL

The Shepherds Bay Concept Approval provides consent for the construction of 12 buildings which incorporate basement level parking. The site has a varied topography with a fall to the

Shepherd's Bay foreshore up to 18 metres, as well as a fall of approximately 10 metres from the east to west along Constitution Road. As such, it is expected that any design of the buildings, including their vehicular and pedestrian access, grading and circulation to the basement car park levels, will involve service levels which will reasonably be located above ground level in parts. This is particularly the case in order to achieve minimum freeboard for all residential floors and entrances to basement car parking.

For these reasons, Condition 3.4 of the Concept Approval which is reproduced below is unable to be reasonably satisfied: -

“Built Form

4. Future Development Applications shall ensure that basement parking levels do not exceed 1 metre above ground level (finished) and are located below the building footprint and do not encroach into street setback areas.”

This can be demonstrated in the following elevations of the approved Stage 1 development prepared by Robertson + Marks which depicts the relationship between the finished levels of the site including appropriate road levels and the incorporation of the necessary stormwater and WSUD measures, and the approved building.

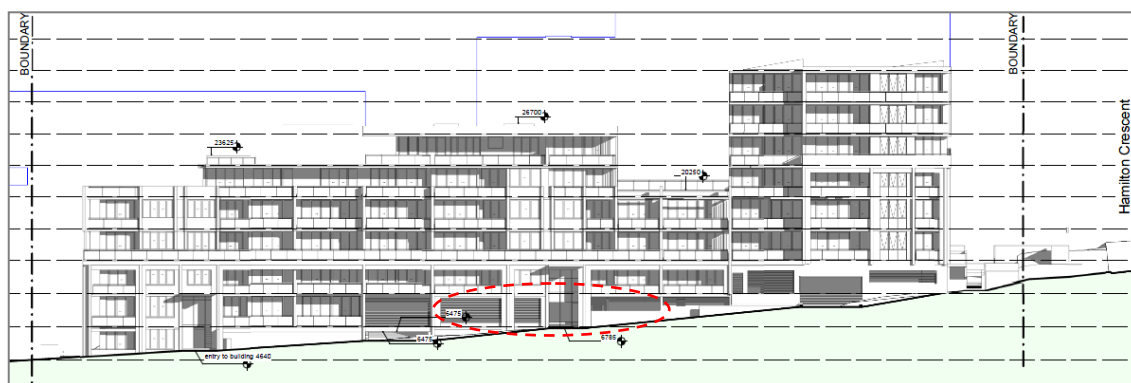


Figure 10: Extract of the Eastern Elevation Plan approved by DoPI to discharge Condition B2 of the Stage 1 Project Approval (MP09_0216). This Belmore Street elevation identifies (in red) the areas which provide blank wall facades at street level, despite the stepped design of the development in response to the site's sloping topography.

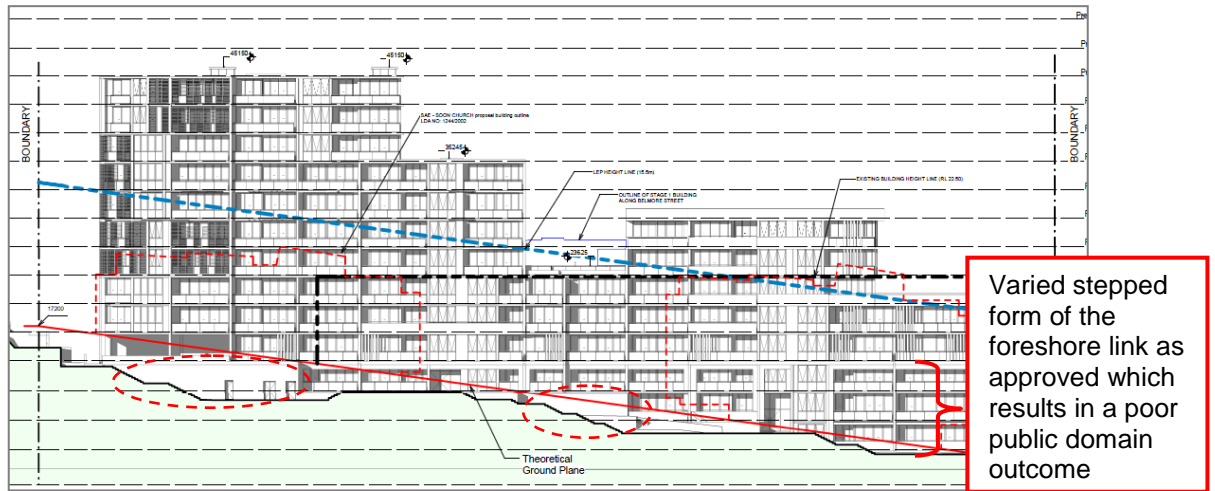


Figure 11: Extract of the Western Elevation Plan approved by DoPI to discharge Condition B2 of the Stage 1 Project Approval (MP09_0216). This western foreshore link is depicted as stepping down in a varied manner, and the adjoining building elevation results in areas with blank wall facades (as identified in red).

With respect to Stage 1, this issue affects the central portion of the eastern facade on the Upper Basement Level, and the central and rear portion of the western facade on the Upper Basement and Lower Ground Floor Levels. The proposal also seeks to provide a fluid slope for the foreshore link which adjoins the western facade of Stage 1. This is achieved through the introduction of two stairway elements at the northern portion of the foreshore link and providing a more even grade for the remainder of the link and pockets of level passive recreation areas as shown in **Figure 12** below.



Figure 12: Extract of the Proposed Revised Foreshore Link Landscape Plan indicating the proposed foreshore link which now provides a more efficient access connection and introduces level pockets of passive recreation areas. This design improves the relationship of the foreshore link and the adjoining dwellings.

The resulting improved relationship with the public domain is demonstrated in **Figures 13 and 14** below.

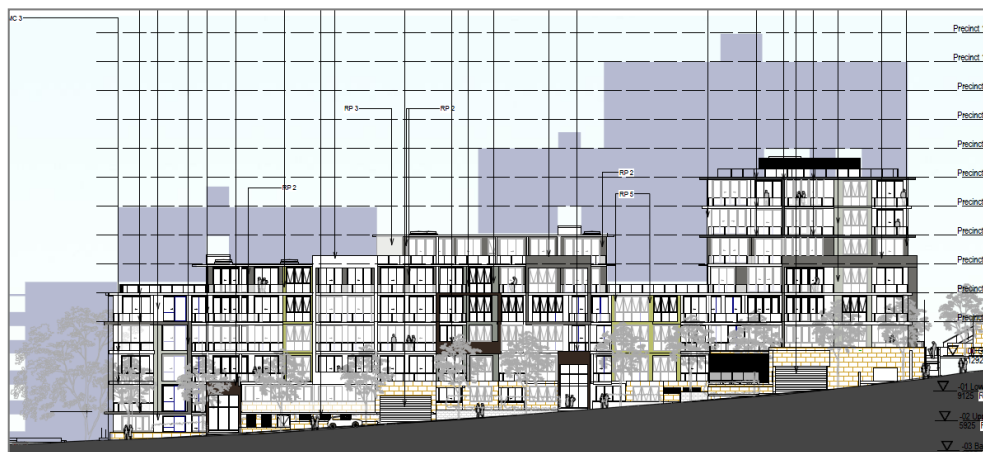


Figure 13: Extract of the Proposed Belmore Street Elevation Plan showing the improved relationship of the dwellings and their connection with the public domain at street level.

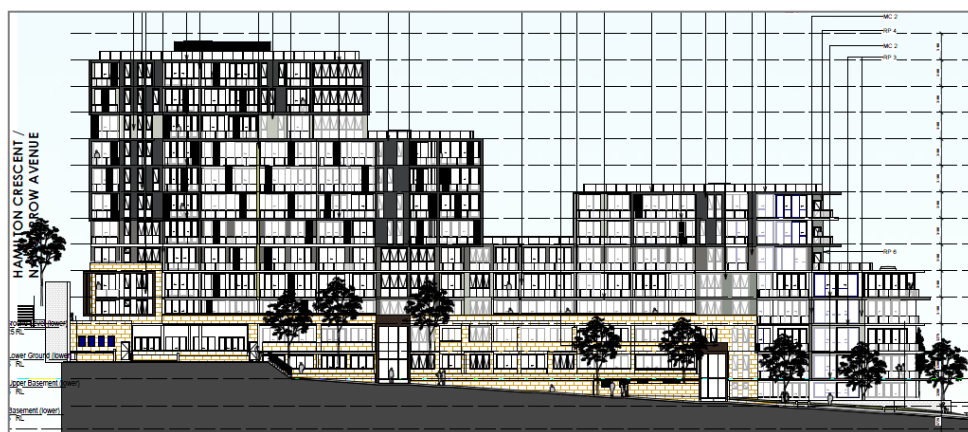


Figure 14: Extract of the Proposed Internal Foreshore (western) Elevation Plan showing the gentle slope of the internal foreshore link, the introduction of two stairways at the upper portion of the foreshore link, and the improved relationship of the public domain with the adjoining dwellings.

Given the above, this application seeks to amend the Building Storeys Plan to allow for dwellings in these locations in the place of blank facades or services. The Building Storeys Plan is also proposed to be updated to reflect the Stage 1 Project Approval and outcome of the Condition B2 Design Modifications. With respect to Stage 1, the updated Indicative Concept Plan Storeys Plan is provided in **Figure 15** below (also refer to **Appendix 2**).

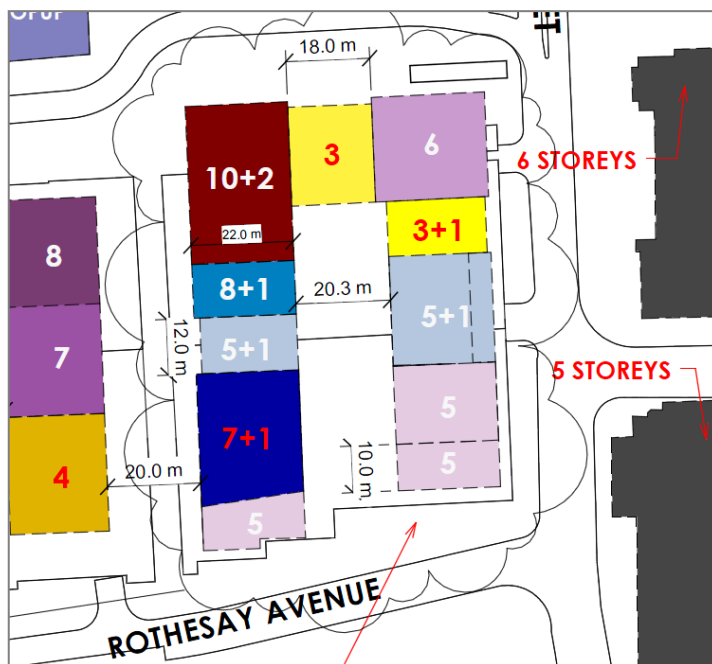


Figure 15: Extract of the Updated Indicative Concept Plan Storeys Plan demonstrating the proposed storeys for Stage 1 which take into consideration the storeys approved in the Stage 1 Project Approval (MP09_0216) as a result of Condition B2, and the introduction of units at the public domain level to provide dwellings and an improved relationship with the street level.

Further, it is to be appreciated that the proponent is undertaking detailed building design of the remainder of the site, and it is apparent that this design issue will affect the remaining stages. As a design solution, therefore it is proposed that the wording in Condition 3.4 is modified to allow for basement levels to exceed 1 metres above ground level (finished), where it can be demonstrated appropriate alternative public domain outcomes are achieved including: -

- The built form of each development, including the upper parking levels, provide an aesthetically pleasing interface between the building and the public domain at pedestrian level;
- Appropriate landscape screening is provided to all facades of basement parking areas which protrude above ground; and
- The basement parking areas which protrude above ground demonstrate appropriate articulation and quality materials and finishes to provide attractive buildings and streetscapes.

This allowance for basement levels to have flexible heights above ground level (finished) is a direct response to the existing conditions of the site and the requirements of stormwater management and infrastructure to be provided in the Concept Approval.

The proponent recognises that the optimal development outcome for the redevelopment of Shepherds Bay is to provide accessible public domain areas and through site links which exhibit a high quality urban design outcome and landscaping elements, with a strong relationship to the adjoining residential dwellings at ground level. The likely design outcome is to avoid the provision of blank wall facades and services which front the public domain areas, and to provide dwellings at these points to improve the residential setting. This will be achieved through careful analysis of the future stages.

To allow for this likely design outcome, this application also seeks to provide a development outcome which satisfies the revised Indicative Concept Plan Storeys Plan (**Appendix 2**) with an allowance for additional storeys where activation of the ground level is an optimal design outcome.

An additional Condition in Schedule 3 is proposed to be incorporated to allow for the following: -

Built Form

“Future Development Applications shall satisfy the Maximum Number of Storeys Above Ground Level (Finished) Plan, with the exception of buildings on steeply sloping topography, where additional storeys may be required to activate the ground level, where the overall building height satisfies the maximum permitted RL.”

The addition of this condition would allow for the consent authority to consider the provision of additional storeys at ground level, on a merit basis, where this design results in an optimal design outcome and to avoid the provision of blank wall facades and services. The inclusion of this proposed condition provides flexibility for the consent authority to allow for merit assessment of future Development Applications without the necessity to modify the Building Storeys Plan via a Section 75W Modification Application.

3.4 BASEMENT LEVELS BELOW THE BUILDING FOOTPRINT

The Shepherds Bay Concept Approval provides consent for the construction of 12 buildings which incorporate basement level parking. As demonstrated on the approved Concept Plans, and maintained on the Concept Plans approved by the Department of Planning and Infrastructure on 24 June 2013 for the purpose of discharging Condition B1 of the Concept Approval MP09_0216, the proposal sought to provide basement parking levels below each building, including their internal courtyard areas.

Due to the wording of Condition 3.4, the design of the basement parking levels for each Stage is restricted to be *“below the building footprint”* only, and results in constrained parking arrangements due to the ‘u-shaped’ buildings. Given the angled layout of the buildings, the resulting basement layouts result in restricted opportunities for vehicular circulation and access.

It is unclear whether this was an intended outcome of the determination, nevertheless, this application proposes to amend the wording of Condition 3.4 *Built Form* to allow for the basement parking levels to also be located within the internal courtyard and connecting areas, and maintain the exclusion of the basement parking levels from the street setback areas.

The current wording of Condition 3.4 is reproduced in Section 3.3 above. The proposed rewording of Condition 3.4 of the Concept Approval is as follows: -

“Built Form

4. Future Development Applications shall ensure that basement parking levels do not exceed 1 metre above ground level (finished) and do not encroach into street setback areas.”

When considered in relation to Stage 2 (formerly Stage 3) the current wording of this condition requires the basement parking to be within the 'u-shape' of the building envelope as depicted in **Figure 16**. It is reasonable to allow for the basement parking level to reflect the overall building outline, as depicted in **Figure 17**. This comparative analysis demonstrates the benefits of permitting the basement parking level to include the area below the internal portion of the building.



Figure 16: Demonstration of the basement parking level which is wholly contained within the building footprint.

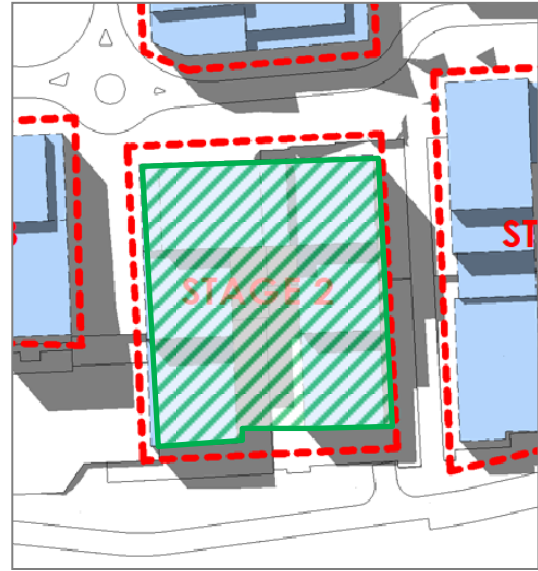


Figure 17: Demonstration of the basement parking level which is within the building footprint, and also the internal courtyard of the 'u-shaped' building.

Through the further detailed analysis of the Concept Approval site, it has also been identified that Condition 3.4 further constrains the basement parking arrangement for the site in relation to Stages 2 and 3 which adjoin each other, as well as 4 and 5 which adjoin each other. These Stages have a separation distance of only 20 metres, and given the extent of excavation and works required for these basement parking areas, a better planning and construction outcome is to enable for a single basement parking arrangement in this case. The proposed maximum layout of the shared basement parking arrangement is demonstrated in **Figure 18** and below.

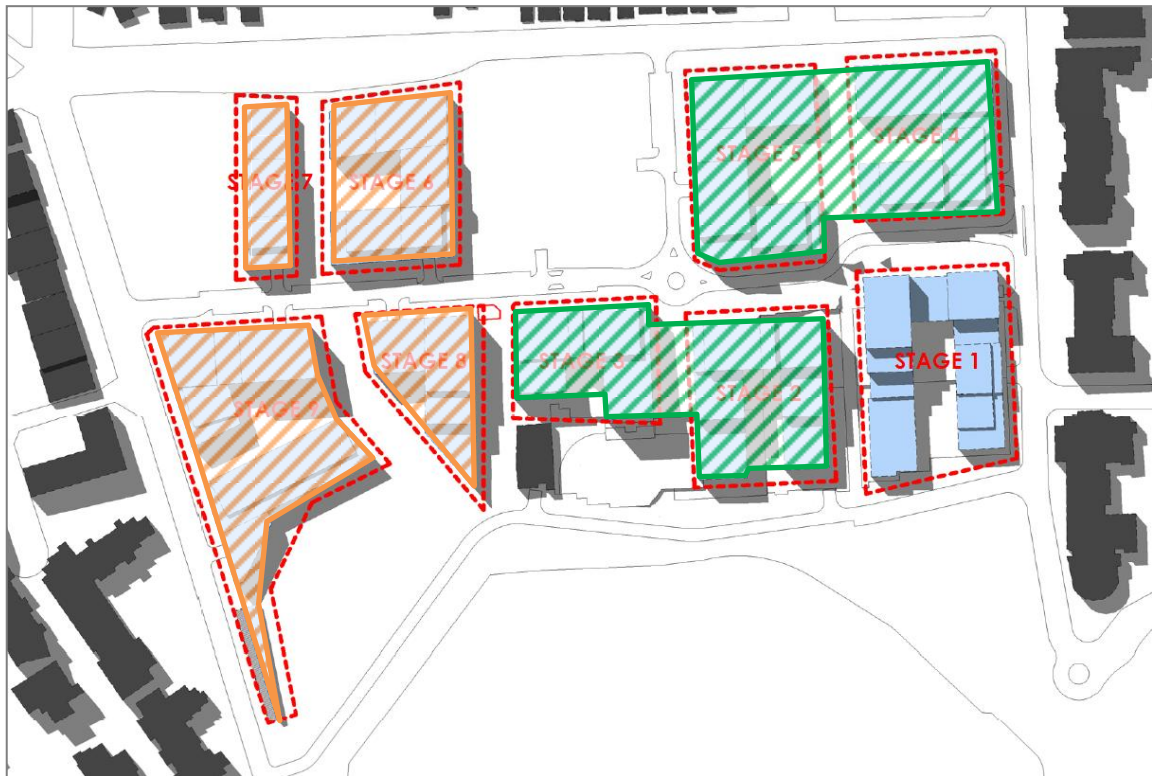


Figure 18: Plan demonstrating the proposed maximum layout of the basement parking levels. The basement parking levels of Stages 2 to 9 inclusive are also proposed to comprise the internal portion of the 'u-shaped' buildings. Stages 2 and 3 are also proposed to share a basement parking level as depicted in green. Stages 4 and 5 are also proposed to share a basement parking level as depicted in green. The basement parking levels of Stage 1 are approved subject to MP09_0219 and comprise the internal portion of the 'u-shaped' building.

The proposed changes allowing full basement access results in substantial benefits with regard to an improved planning and construction outcome as follows: -

- Reduced access points given Stages 2 and 3, and Stages 4 and 5 share a common parking area and ingress/egress points. This rationalisation of footpath crossings results in an improved public domain and landscaping outcome which benefits pedestrians;
- The ability to provide an optimal basement parking arrangement which subsequently improves the traffic and parking functionality of the development and the local road network;
- The basement parking areas will be appropriately designed to ensure a high level of performance with regard to the safety by design principles including appropriate paths of travel and safety aspects for vehicles and individuals;
- The retention of high quality landscaping for the internal courtyard areas of the 'u-shaped' buildings with appropriate soft landscaping;
- The retention of appropriate deep soil landscaping at the street setback areas. In fact, increased deep soil landscaping due to the reduction in the access points; and
- A more appropriate excavation outcome, in particular with regard to the areas between Stages 2 and 3, and Stages 4 and 5. The current wording of Condition 3.4 requires the excavation of the basement parking levels to be exclusive of these narrow areas, and requires substantial shoring and anchoring techniques to retain these areas. The

proposed shared basement parking arrangement allows for a more consistent and secure excavation and construction outcome for the long term benefit of the development.

The proposed rewording to Condition 3.4 allows for basement parking levels which are less physically constrained, as is the intention of the approved Concept Plans and as is achieved in the Stage 1 Approval. The proposed basement parking, including the shared basement parking arrangement for Stages 2 and 3, and Stages 4 and 5, do not result in any adverse environmental impacts to the development or the locality. The proposal provides sufficient opportunity for soft soil landscaping which support these private spaces and the through site links to the foreshore and maintain the deep soil provision at the street setback areas.

3.4 ESD TARGETS

The EA submitted for the Concept Proposal was supported by an ESD Guidelines and Report prepared by Ecospecifier Consulting dated October 2010. This report was prepared with a view to propose a high level of sustainability outcomes with a strong emphasis on the passive efficiency of the buildings, thereby achieving “*industry best practice*.”

This report addressed the relevant Environmentally Sustainable Development (ESD) categories providing “base targets” for the purpose of guiding the design of the Concept site to reflect industry best practice in Australia. In addition, where “base targets” were not directly relevant “stretch targets” were detailed to provide additional initiatives which will help the development exceed industry best practice and approach the realms of “*world’s best practice*.”

As disclosed in the ESD Guidelines and Report, the inclusion of stretch targets was an additional conceptual guideline which was “*envisioned to challenge the whole design team to create a highly sustainable built environment*.” Therefore, the stretch targets were intended as optimal design guidelines, in support of the actual benchmarks provided by BASIX requirements.

Condition 22 of the Concept Approval states the following: -

“ESD

22. Future Development Applications shall demonstrate the incorporation of ESD principles in the design, construction and ongoing operation phases of the development, in accordance with the base targets within ESD Guidelines Report prepared by Ecospecifier Consulting dated October 2010. Where no base target is provided within this report, the development must comply with the stretch target.”

Given this, Condition 3.22 of the Concept Approval above “over commits” the overall development to comply with stretch targets which are likely unattainable (and unnecessary) and risk diminishing other more pertinent aspects of the development.

Further explanation of the intent of the *ESD Guidelines and Report* is provided in the attached correspondence prepared by Integro Consulting (formerly Ecospecifier Consulting) dated 31 October 2013. This correspondence clarifies that the ESD Targets are setout to achieve at least four (4) of the ESD categories, as opposed to all of them. As recommended by Integro Consulting, high achievement in four (4) categories would represent an excellent sustainability

outcome and one equivalent to “industry best practice.” Furthermore, in place of the EnviroDevelopment targets for water and energy, Integro Consulting recommend that the water and energy categories are instead assessed using the BASIX results, which are the relevant and current tools for assessment in NSW. Refer to the correspondence prepared by Integro Consulting provided at **Appendix X** for further details.

Given the reasoning above, it is requested that the wording in Condition 3.22 is modified as follows: -

“ESD

*Future Development Applications shall demonstrate the incorporation of ESD principles in the design, construction and ongoing operation phases of the development, **by meeting (where relevant and feasible)** the base targets within the ESD Guidelines Report prepared by Ecospecifier Consulting dated 2010. Where no base target is provided within this report, the development must comply with the stretch target **(where relevant and feasible)**.*

In accordance with the EnviroDevelopment philosophy, 4 of the categories will be targeted to show "industry best practice". Where the categories of water and energy are applied, BASIX will be used to test "industry best practice" for water and energy, which will be treated as at least 10% better than the BASIX pass marks (e.g. 22/20 for energy rather than 20/20)."

The proposed rewording allows flexibility in the design of the each development and the individual ESD measures which are capable of being applied to each development in a reasonable and balanced manner to achieve the optimal design and ESD outcome.

3.5 REWORDING TO CONDITION 21 RESIDENTIAL AMENITY

Throughout the assessment of the Concept Application (MP09_0216) and Stage 1 Project Application (MP09_0219), it was identified by the proponent that the buildings within the Concept Plan site are vulnerable to achieving solar access to the individual apartments. This constraint is due to the orientation of the development sites, the fixed street arrangement, the sloping topography of the site, and the arrangement of the buildings to enjoy visual access to the water views to the south. This was discussed in detail with the DoPI throughout the assessment period. Despite this, the Concept Approval included the following condition: –

“Residential Amenity

21. Future Development Applications shall demonstrate compliance with the provisions of the *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development* (SEPP 65) and the accompanying *Residential Flat Design Code 2002* (RFDC)."

As approved, the Concept Plan and Project Plan result in the approval of the general siting and building envelopes are **not** capable of complying with the specific Rules of Thumb, in particular in relation to solar access. It would therefore be unreasonable to require compliance where compliance has not been achieved as approved.

As an example, the approved Stage 1 Project Approval (MP09_0219), as modified by the PPR and Condition B2 *Design Modifications*, results in a residential flat building with minimum solar access (2 hours between 9am and 3pm on June 21) to 67 apartments (32.4%) (as per an independent analysis of the approved development by Steve King Consultant Architect). Although the quantum of apartments which achieve the minimum solar access requirement at midwinter is lower than the SEPP 65 guidelines, the overall proposal provides a high quality residential development which is responsive to the preference of the current market to provide affordably sized units in a desirable waterfront location.

Future Development Applications for Stage 2 onwards are therefore not capable of satisfying the strict Rules of Thumb of the RFDC. However, the detailed design and floor plan layout of the residential units will exhibit a suitable level of amenity, without being overly constrained by manipulating the layout of the development and individual units to achieve the SEPP 65 solar access guidelines.

Future Development Applications for Stage 2 onwards will also provide an allowance for alternative design techniques, such as extensive glazing or minimum apartment areas where possible. The future DAs will also exhibit a high standard with regard to the SEPP 65 Design Quality Principles and will afford the dwellings a high level of amenity notwithstanding the specific Rules of Thumb. Further to these alternative design techniques, the units are/will be designed with a modern open plan living style with high quality materials and finishes which are responsive to the current market demand.

The buildings the subject of future Development Applications will comprise dwellings which achieve a suitable level of amenity through the open plan floor plan layout, privacy features, high quality materials and finishes, water views, extensive infrastructure upgrades and access to public transport. Therefore, it is considered appropriate to revise the wording in Condition 21 *Residential Amenity* to enable specifically designed buildings which satisfactorily address the Design Quality Principles of SEPP 65 and exhibit a high level of amenity relative to their site and surrounds.

Given this reasoning, this application seeks to modify the wording in Condition 21 *Residential Amenity* as follows: -

“Residential Amenity

21. Future Development Applications shall demonstrate that it satisfies the Design Principles of the *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development* (SEPP 65) and the accompanying *Residential Flat Design Code 2002* (RFDC) where appropriate.”

3.6 DELIVERY OF THE COMMUNITY FACILITY SPACE

Condition 18 of the Concept Plan (MP09_0216) requires Stage A located at Church Street (previously Stage 5) to provide an ‘*appropriate community space within the development on the ground floor level with street frontage.*’ The form of the Community Facility was discussed with Ryde Council at a recent meeting held on 27 September 2013, in which Council’s officers advised they would consider the location and form of this space for community purposes. To date the proponent has not received any advice from Council to this effect.

Given the location and form of the community space is not yet determined by Council, it is considered appropriate to modify the wording in Condition 18 to provide flexibility in its delivery. In particular, given the provision of this space which is to be wholly provided within Stage A (previously Stage 5) may not be the most appropriate location.

This application seeks to allow for the Community Facility space to be provided at an alternate location or split between multiple locations. To achieve this, Condition 18 is sought to be modified as follows: -

“Community Facilities

18. Future DA/s **in relation to the appropriate Stage(s) for the Stage 5 development** shall include, at no cost to Council, an appropriate community space within the development on the ground floor level with street frontage, which can be used by Council or nominated community organisation(s) for community purposes.

- a) The amount and configuration of floorspace should be designed in consultation with Council or a Council nominated community organisation(s). Any dispute in the quantum of floorspace to be provided should be referred to the Director-General, whose decision shall be final.
- b) The designated community floor space must not be used for any other commercial, retail or residential use unless Council decides not to accept the designated floorspace.
- c) The provision of the community floorspace is in addition to Council’s Section 94 Contributions for future development.”

This approach ensures that the provision of space for a Community Facility, or multiple facilities, are capable of being provided which suits the varying needs of the community both in terms of the form of land use/s and their location.

3.7 THE OUTCOME OF THE DESIGN EXCELLENCE PROCESS

The Concept Plan currently requires the Stage A signature building at Church Street (previously Stage 5) to “*demonstrate design excellence in accordance with the Director General’s Design Excellence Guidelines.*” The proponent has recently entered into discussions with the DoPI and Ryde Council to undertake this design excellence process. Upon consideration of the ability for this key site to deliver the highest standard of architectural, urban and landscape design, it is anticipated that the optimal design will be generally within the height and setback requirements approved in the Concept Approval (refer to **Figure 19** below), however will likely modify these structured height and setback requirements to provide an architecturally interesting signature building.

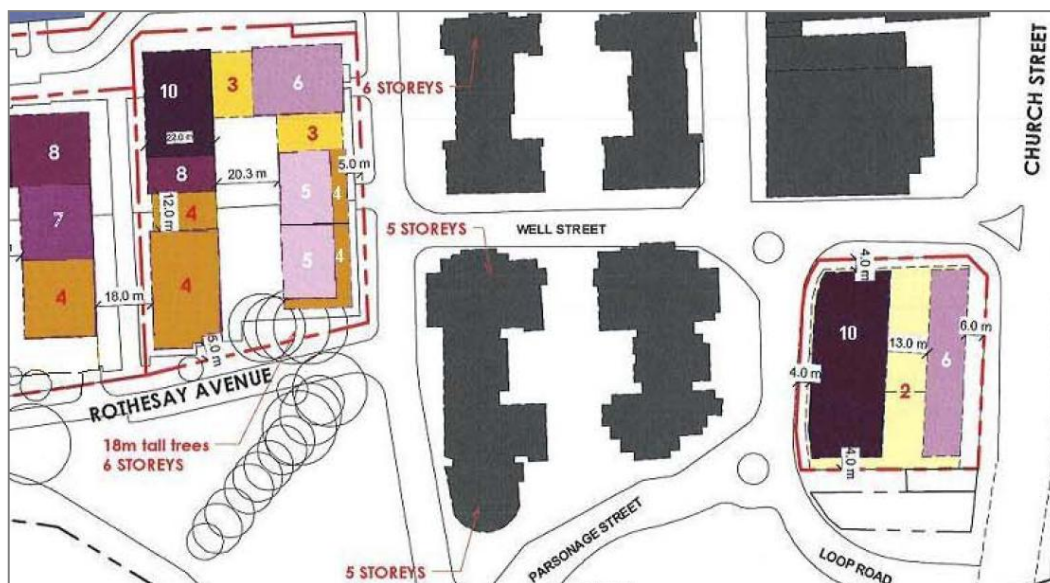


Figure 19: Extract of the Maximum Number of Storeys Above Ground Level (Finished) as approved by the PAC (March 2013) approved in the Concept Plan (MP09_0216). The Signature Building at Church Street (previously Stage 5) comprises basic requirements for setback and storeys which limit the ability for creative architectural expression and design excellence.

To allow for a building form which is interesting and creates a visual statement, as is the objective of the Design Excellence process, this application proposes to modify Condition 1 *Design Excellence*. As an outcome of the Design Excellence process, this approach will allow for a Development Application to be considered by the consent authority, Ryde Council, without the need to modify the height, storey and setback requirements of the Concept Plan. This condition is proposed to be modified as follows: -

Design Excellence

1. Future Development Application/s for Stage **A 5** (the signature building fronting Church Street) shall demonstrate design excellence in accordance with the Director General's Design Excellence Guidelines.

Where the outcome of the design excellence process results in a built form which varies from the Concept Plan with respect to height, storeys and setbacks, that variation is acceptable subject to approval by the Consent Authority.

3.8 REVISED DRAFT STATEMENT OF COMMITMENTS

The potential environmental impacts of the redevelopment of Shepherds Bay are able to be effectively ameliorated by the mitigation measures recommended within the various consultant reports that have informed this report.

The Draft Statement of Commitments which was approved with the Concept Approval was prepared to accompany the Preferred Project Report (PPR) and is dated 5 October 2010. This version of the PPR does not accurately reflect the final form of the Concept Approval. This is due to the imposition of conditions of consent which override the Statement of Commitments and specifically reduces the yield on the site.

Of note is the fact that the Concept Approval relied on negotiating a Voluntary Planning Agreement (VPA) with City of Ryde Council to delineate the items of community benefit, to be offset against the relevant s94 Contributions. As Council discontinued negotiations and this VPA did not eventuate, the Statement of Commitments does not accurately reflect this. Despite this discrepancy, this issue is not raised within this application. Council and Holdmark Property Group are currently considering a VPA with respect to the Concept Plan site, which is separate to this application. The reference in the Statement of Commitments in relation to Community Benefits is modified accordingly.

In addition, in response to Condition B1 (b) of the Concept Plan, the reference to the amount of publically accessible open space (18,304m²) has been updated to reflect the revised Open Space Area Plan (**Appendix 3**). It is noted that the original figure provided in the Statement of Commitments dated 5 October 2012 approved with the Concept Approval (MP09_0216) reflects an outdated figure from a previous building arrangement, and does not reflect that actual public space figure as approved. The revised Open Space Area Plan (**Appendix 3**) reflects the correct figure of publically accessible open space and as discussed above, also provides an improved quality of publically accessible open space.

A revised draft Statement of Commitments is provided at **Appendix 5** which provides an updated summary of the commitments to reflect the actual approval and is considered to mitigate any significant adverse impacts to the satisfaction of the Minister as the consent authority.

4 PROPOSED MODIFICATIONS TO CONDITIONS OF CONSENT

CONCEPT APPROVAL MP09_0216

To give effect to the amendments identified in Section 3 above, the following modifications to the consent are proposed. Words proposed to be deleted are shown as ~~strike through~~ and words to be inserted are shown in **bold**. Additional conditions are shown in **bold**. In particular, the plan references in Condition A2 are proposed to be updated to reflect the modified plans as approved by the Department of Planning and Infrastructure on 24 June 2013 for the purpose of discharging Condition B1 of the Concept Approval MP09_0216 as shown in **bold**.

SCHEDULE 2

PART A – ADMINISTRATIVE CONDITIONS

Development in accordance with plans and documentation

A2. The Proponent shall carry out the project generally in accordance with the:

- the Environmental Assessment dated 7 January 2011 prepared by Robertson + Marks Architects and PLACE Design Group, except where amended by the Preferred Project Report dated July 2012, **except where amended by Modification Application MP09_0216 Mod 1 dated November 2013**, including all associated documents and reports;
- the Draft Statement of Commitments prepared by Holdmark Property Group updated on **November 2013** ~~5 October 2012~~; and
- the following drawings:

<i>Drawings Prepared by Robertson + Marks Architects</i>		
<i>Drawing No</i>	<i>Name of Plan</i>	<i>Date</i>
Figure 11 Rev 2	Preferred Concept Plan	July 2012
PPR 002-A B	Preferred Project Master Plan: Indicative Concept Plan Storeys Plan	October 2013 11 Feb 2013
PPR 001-A Plan 2	Maximum Height Controls as Approved by the PAC Preferred Project Master Plan: Maximum Heights with Setbacks	March 2013 11 Feb 2013
Figure 14 Rev 2 4	Stage 1 Building Envelope Controls	June 2013 July 2012
Figure 15 Rev 2 4	Stage 2 Building Envelope Controls	July 2012
Figure 16 Rev 2 4	Stage 3 Building Envelope Controls	July 2012
Figure 17 Rev 2 4	Stage 4 Building Envelope Controls	July 2012
Figure 18 Rev 2 4	Stage 5 Building Envelope Controls	July 2012
Figure 19 Rev 2 4	Stage 6 Building Envelope Controls	July 2012
Figure 20 Rev 2 4	Stage 7 Building Envelope Controls	July 2012
Figure 21 Rev 2 4	Stage 8 Building Envelope Controls	July 2012

Figure 22 Rev 2 4	Stage 9 Building Envelope Controls	July 2012
Figure 23 Rev 2 4	Stage 10 Building Envelope Controls	July 2012
Figure 28 Rev 2	Indicative Building Setbacks	July 2012
Figure 29 Rev 4 Figure 29 Rev 2	Landscape Masterplan	July 2012 Nov 2013
Figure 30 Rev 2	Vehicular Access and Public Transport Plan	July 2012
Figure 32 Rev 2	Pedestrian and Cycle Access Plan	July 2012
Figure 32A Rev 2	Indicative Accessible Circulation Plan	July 2012
Figure 33 Rev 2	Indicative Community, Retail &/or Commercial uses Location Map	July 2012
003 Rev 5 Figure 52	Open Space Area Plan and Deep Soil Zones	July 2012 Nov 2013

except for as modified by the following pursuant to Section 75O(4) of the Act.

SCHEDULE 3 FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Design Excellence

2. Future Development Application/s for Stage ~~A 5~~ (the signature building fronting Church Street) shall demonstrate design excellence in accordance with the Director General's Design Excellence Guidelines.

Where the outcome of the design excellence process results in a built form which varies from the Concept Plan with respect to height, storeys and setbacks, that variation is acceptable subject to approval by the Consent Authority.

Built Form

3. Notwithstanding the approved maximum building heights in RL, future Development Applications shall demonstrate that:
 - (a) buildings along Constitution Road are a maximum of 5 storeys, **with the exception of the corner element of the Stage 4 (former Stage 2) building on the corner of Constitution Road and Bowden Street which is permitted to 6 storeys;** and
 - (b) the southern building element of Stage 7 is a maximum of 5 storeys.

Built Form

4. Future Development Applications shall ensure that basement parking levels do not exceed 1 metre above ground level (finished) and ~~are located below the building footprint and~~ do not encroach into street setback areas.

Basement parking levels are permitted to exceed 1 metre above ground level (existing) where the following can be demonstrated: -

- **The built form of each development, including the upper parking levels, provide an aesthetically pleasing interface between the building and the public domain at pedestrian level;**

- **Appropriate landscape screening is provided to all facades of basement parking areas which protrude above ground; and**
- **The basement parking areas which protrude above ground demonstrate appropriate articulation and quality materials and finishes to provide attractive buildings and streetscapes.**

Proposed new Built Form Condition:

Built Form

Future Development Applications shall satisfy the 'Maximum Number of Storeys Above Ground Level (Finished) Plan', with the exception of buildings on steeply sloping topography, where additional storeys may be required to activate the ground level, where the overall building height satisfies the maximum permitted RL.

Community Facilities

18. Future DA/s **in relation to the appropriate Stage(s)** ~~for the Stage 5 development~~ shall include, at no cost to Council, an appropriate community space within the development on the ground floor level with street frontage, which can be used by Council or nominated community organisation(s) for community purposes.

- a) The amount and configuration of floorspace should be designed in consultation with Council or a Council nominated community organisation(s). Any dispute in the quantum of floorspace to be provided should be referred to the Director-General, whose decision shall be final.
- b) The designated community floor space must not be used for any other commercial, retail or residential use unless Council decides not to accept the designated floorspace.
- c) The provision of the community floorspace is in addition to Council's Section 94 Contributions for future development.

Residential Amenity

21. Future Development Applications shall demonstrate **that it satisfies the Design Principles** ~~compliance with the provisions of the~~ *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development* (SEPP 65) and the accompanying *Residential Flat Design Code 2002* (RFDC), **where appropriate.**

ESD

22. Future Development Applications shall demonstrate the incorporation of ESD principles in the design, construction and ongoing operation phases of the development, **by meeting (where relevant and feasible)** the base targets within the ESD Guidelines Report prepared by Ecospecifier Consulting dated 2010. Where no base target is provided within this report, the development must comply with the stretch target **(where relevant and feasible).**

In accordance with the EnviroDevelopment philosophy, 4 of the categories will be targeted to show "industry best practice". Where the categories of water and energy are applied, BASIX will be used to test "industry best practice" for water and energy, which will be treated as at least 10% better than the BASIX pass marks (e.g. 22/20 for energy rather than 20/20).

The following conditions are also proposed to be modified to reflect the updated staging references:

CONDITION	APPROVED STAGING REFERENCE	PROPOSED STAGING REFERENCE
1. Design Excellence	DA for Stage 5	DA for Stage A
3.(b) Built Form	Stage 7	Stage 8
6. Built Form	DA for Stage 6	DA for Stage 3
7. Built Form	DA for Stage 5	DA for Stage A
8. Built Form	DA for Stage 6	DA for Stage 3
18. Community Facilities	DA for Stage 5	DA for an appropriate Stage/s
20. Public Art	DA for Stage 3	DA for Stage 2
24. Road Infrastructure & Road Reserve Upgrades	DA for Stage 2	DA for Stage 4
25. Road Infrastructure & Road Reserve Upgrades	DA for the Fourth Stage	DA for Stage 5
27. RMS Requirements	DA for Stage 5	DA for Stage A
29. Heritage	DA for Stage 8	DA for Stage 6
30. Heritage	DA for Stage 5	DA for Stage A
32. Noise & Vibration	DA for Stage 5	DA for Stage A
34. Stormwater Infrastructure Upgrades	DA for Stage 7, 8, 9 or 10 (whichever occurs first)	DA for Stage 6, 7, 8 or 9 (whichever occurs first)

5 CONSULTATION

Ryde Council

The items addressed in this Modification Application were presented to the Ryde Council's senior officers on 27 September 2013.

Council's officers generally supported the direction of the proposed plans, and made some preliminary comments to improve the contribution of this development to the future built form and urban design of the Shepherds Bay precinct.

The architects have considered and addressed the aspects of the development identified for further improvement and the final design addresses each as follows: -

- Ensuring that the units which are proposed to be introduced at street level to mitigate the impact of basement levels and blank facades above ground demonstrate a suitable level of amenity. Council recognised that this issue is likely to be a stage by stage concern;
- The staging of the buildings and associated infrastructure works are clearly identified;
- Council supported the updating of the details in the Statement of Commitments;
- Council was to provide detailed engineering comments with regard to the road infrastructure and road reserve upgrades with regard to Stage 1;
- Council recognised the benefit of delivering the public open space in associated with the stage to which it physically adjoins, being Stage 3 (formerly Stage 6); and
- Further discussions were undertaken with regard to the proposal for Holdmark Property Group to enter in to a VPA with Ryde Council. These discussions are to continue separate to this application.

Council's comments have been integrated into this proposal.

6 STATUTORY CONTEXT

5.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with the former provisions of clause 13 of Schedule 1 of the *State Environmental Planning Policy (Major Development) 2005* the proposal is a Major Project under Part 3A of the Environmental Planning and Assessment Act, 1979 (*the Act*), given it is a development for the purpose of a residential, commercial or retail project. The proposal has a capital investment value over \$100 million.

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A to the EP&A Act, continues to apply to transitional Part 3A projects. Director-General's environmental assessment requirements (DGRs) were issued in respect of this project prior to 8 April 2011 (issued on 20 May 2010), the project is considered to be a transitional Part 3A project.

To this end, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and approval may be granted under Section 75W of the Act.

5.2 Modification of the Minister's Approval

This S75W modification application is lodged with the Director General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *"revoking or varying a condition of the approval or imposing an additional condition of the approval"*.

In accordance with Section 75W the proponent seeks approval for the modification of Major Project MP09_0216. The modification is considered to comfortably be considered as an application to which 75W applies for the following reasons: -

- The principal use of the buildings, being primarily residential with some retail commercial, retail or community uses, remains the same.
- The modification is the result of detailed consideration of the demolition and construction process to be undertaken to deliver the development including the public domain area.
- The Concept Approval remains generally in accordance with the approved building envelopes.
- The Concept Approval maintains the provision of public domain benefits which directly benefit the greater community.
- The proposal does not introduce any new adverse amenity impact upon the surrounding area.
- It is noted that, to the best of our knowledge, there are no parameters against which the degree of modification need be assessed.

It is considered that the proposed modification includes changes to the terms and conditions of the existing approval and that it can comfortably be considered as modification under 75W of the Environmental Planning and Assessment Act 1979. Approval to modify the application is required.

5.3 Environmental Assessment Requirements

We consider that sufficient information has been provided with this application to enable assessment to be undertaken. The application remains consistent with the key assessment requirements addressed in the original DGR's for MP09_0216.

5.4 Relevant Strategies

The Concept Application (MP09_0216) and this application have been prepared with due regard for relevant strategies including the Metropolitan Strategy: City of Cities, the NSW State Plan, The Metropolitan Review and Draft Inner North Subregional Strategy. It is noted that the Draft Metropolitan Strategy has also recently been released. This application maintains the approved mixed use neighbourhood area of the former Meadowbank Employment Area, which supports the transitional intent of the area towards developing a Small Village. This is achieved through the provision of non-residential floor space, residential dwellings and public domain benefits. This proposal is in keeping with the strategic intent of the locality in line with the Ryde Local Environmental Plan 2010 and Ryde Development Control Plan which encourages residential land uses as the significant feature of the Meadowbank landscape. The proposal is considered to provide a positive contribution to the transitioning character of Meadowbank which satisfies the objectives and directions of the relevant policies and strategies.

5.5 State Environmental Planning Policies

The Concept Approval (MP09_0216) and this application have been prepared with due regard for relevant State Environmental Planning Policies (SEPPs) including SEPP (Major Projects) 2005, SEPP 55 – Remediation of Land, SEPP 65 Design Quality of Residential Flat Development, SEPP Infrastructure and SEPP (BASIX) 2004. It is considered that this application continues to satisfy the objectives and requirements of the relevant SEPPs.

5.6 Ryde Local Environmental Plan 2010

The proposal continues to satisfy the objectives of the Ryde Local Environmental Plan (LEP) 2010 and the objectives of the B4 Mixed Use zoning.

5.7 Ryde Development Control Plan 2010

On 6 March 2013, the PAC approved a Concept Approval and Project Application for the subject site. Council's DCP is not applicable to this application. However, both the Concept Approval (MP09_0216), Project Application (MP09_0219) and this application have been prepared with due regard for the relevant sections of Ryde DCP and is considered that the application is consistent with the DCP provisions and in particular satisfies the objectives of the applicable provisions.

5.8 Ryde Draft Local Environmental Plan 2011

At the time of preparing this report, the Draft Ryde LEP 2011 is yet to be gazetted by the DOPI under Section 65. Accordingly, there is no statutory document to consider. The proposal has

been considered with respect to the Draft Ryde LEP 2011 and is considered to generally be in accordance with the objectives and requirements of this EPI.

The Draft Ryde LEP 2011 and Draft Ryde Development Control Plan 2011 – Part 4.2 Shepherd's Bay, Meadowbank (draft RDCP 2011) provide an updated framework and strategic intent for the area. The Draft RLEP and Draft DCP encourage the future redevelopment of the Shepherd's Bay area to accommodate a higher density transit-orientated mixed use neighbourhood. The Concept Approval and this application are consistent with this direction.

7 SUMMARY AND CONCLUSION

The proposed modification to the mixed use development approved in Concept Approval MP09_0216 at Shepherds Bay includes a number of clear improvements which will assist in the actual delivery of the development in an equitable and rational manner.

Included in the improvements are: -

- An updated Indicative Staging Plan to allow for the actual construction of the development and the associated infrastructure and public domain works to be delivered in an efficient and logical manner;
- The opportunity for a landmark element which enhances the presentation of the development through the provision of a 6 storey feature element the development at the corner of Constitution Road and Belmore (now Stage 4);
- The provision of basement levels which are responsive to the sloping topography of the site where the development provides a positive relationship with the public domain through appropriate design techniques, and in the case of Stage 1, the provision of apartments at the public domain level;
- The ability for future Development Applications to be assessed by the Consent Authority which allows additional storeys for buildings on steeply sloping topography where these additional storeys may be required to activate the ground level;
- The provision of basement levels which are capable of achieving suitable circulation and functionality;
- Flexibility in the form and location of the Community Facility space/s to be provided;
- An allowance for future Development Applications to demonstrate a high level of amenity where solar access is unable to be achieved;
- Clarification of the requirements of the ESD targets for future DAs; and
- As an outcome of the Design Excellence Process, the ability for the signature building at Church Street to vary the Concept Plan's height, storey and setback controls to provide a responsive landmark design which achieves design excellence.

The proposal does not have an effect on the environmental impacts of the mixed use neighbourhood as approved. The proposal maintains the commitments to improving the public domain, road upgrades and stormwater improvements for the benefit of the future occupants of the site and greater public. This redevelopment maintains its commitment to being a main driver in the redevelopment of the Shepherds Bay locality from an industrial employment area to a high quality residential precinct with supporting commercial, retail and community floor space.

Consultation has been undertaken with Council's senior officers who provided favourable feedback for the proposed amendments including consideration of a VPA with the proponent, to be considered separately to this application.

The modified proposal has been assessed against the relevant planning provisions under Section 75W and the issues raised in the Director General's Requirements have been readdressed where necessary.

The proposed modifications do not seek to modify the approved built form of the Concept Approval and seeks to ensure that the delivery of the project can be provided in an efficient and logical manner. This report has addressed the potential impacts that may arise from the modifications and it is concluded that no adverse environmental impact will result.

The proposed modifications are generally consistent with the terms of approval, do not change the site's suitability for the development and have been adequately justified in this report in response to the site constraints and practicalities of the construction of the development.

The proposal is consistent with all local regional and state planning objectives. The amended design responds to the key issues identified by the various stakeholders including City of Ryde Council, the relevant agencies, the community and the Department of Planning and Infrastructure. In light of the above benefits of this project and in the absence of the any adverse environmental impacts, it is considered that the Concept Approval contemplates a form of development that will achieve the objects of the EP&A Act. In particular, the proposal represents "*orderly and economic use and development of land*" and provides the opportunity for additional dwelling and employment generating uses. As such, approval is sought for the modified Concept Approval.