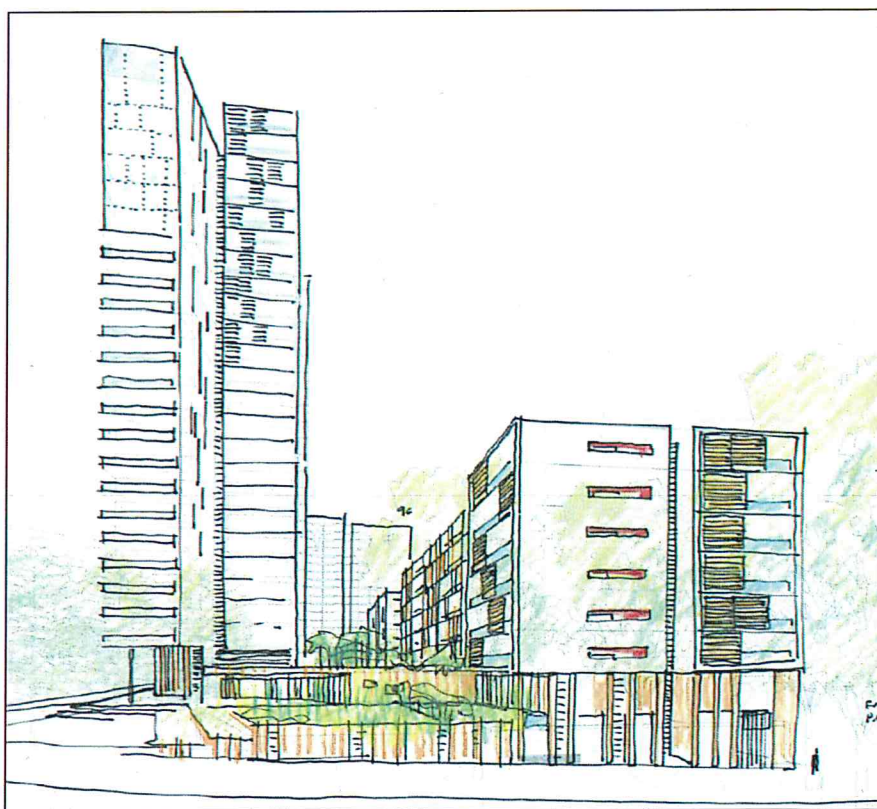




MODIFICATION REQUEST:

41-45 Hill Road, Wentworth Point

***MP06_0098 MOD 2 – Modifications to
increase height and floor space***



Secretary's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979
June 2014

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1. BACKGROUND

1.1 Introduction

Sekisui House (the proponent) has lodged a Section 75W application to amend an existing Concept Plan approval (MP06_0098 MOD 2). The proposed modifications primarily seek to reflect the increased height and floor space provisions provided for by Amendment No 1 to the Homebush Bay West Development Control Plan (HBW DCP), which applies to a large section of the Wentworth Point locality and provides for a significant increase in the allowable floor space than that provided for by the approved concept plan.

1.2 The Site

The site is located at 41-45 Hill Road, Wentworth Point, within the Auburn local government area, and is legally described as Lot 9 DP 776611. The site has a frontage to Hill Road to the north-west and Homebush Bay/Parramatta River foreshore to the south-west. The site is approximately 400 metres in length, 75 to 78 metres in width and has a total area of 31,946 m². The site is known as 'Precinct C' which is one of 6 designated precincts within the Homebush Bay West area (refer to Figure 1).

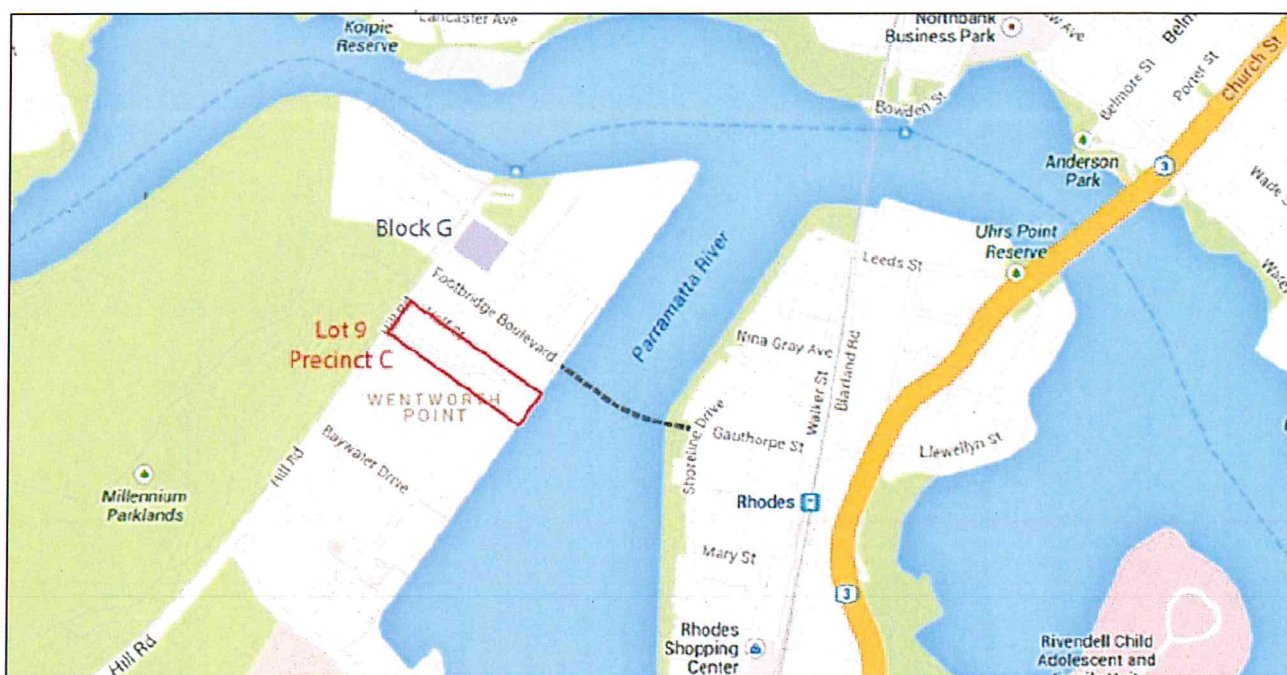


Figure 1: Site Location (source: Proponents EA)

1.3 Approval and Site History

Concept Plan

On 21 January 2008, the then Minister for Planning approved a Concept Plan (MP06_0098) for the redevelopment of the site, including:

- a residential development comprising 685 dwellings with a maximum 50,424m² of floor space set across four residential development allotments; and
- public domain, including roads, a foreshore park, pocket park, and a pedestrian through-link including communal and private open space.

The approved building footprints are depicted in Figure 2.

The approval also included a transfer of allowable floor space from Precinct F to the south of the site.

Pursuant to section 75P(1)(b) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), the Concept Approval provided that approval to carry out the project was subject to development applications to Auburn Council under Part 4 of the EP&A Act.

On 30 July 2012, the Deputy Director General, Development Assessment and Systems Performance, approved a modification (MP06_0098 MOD1) to clarify the lapsing date of the approval.

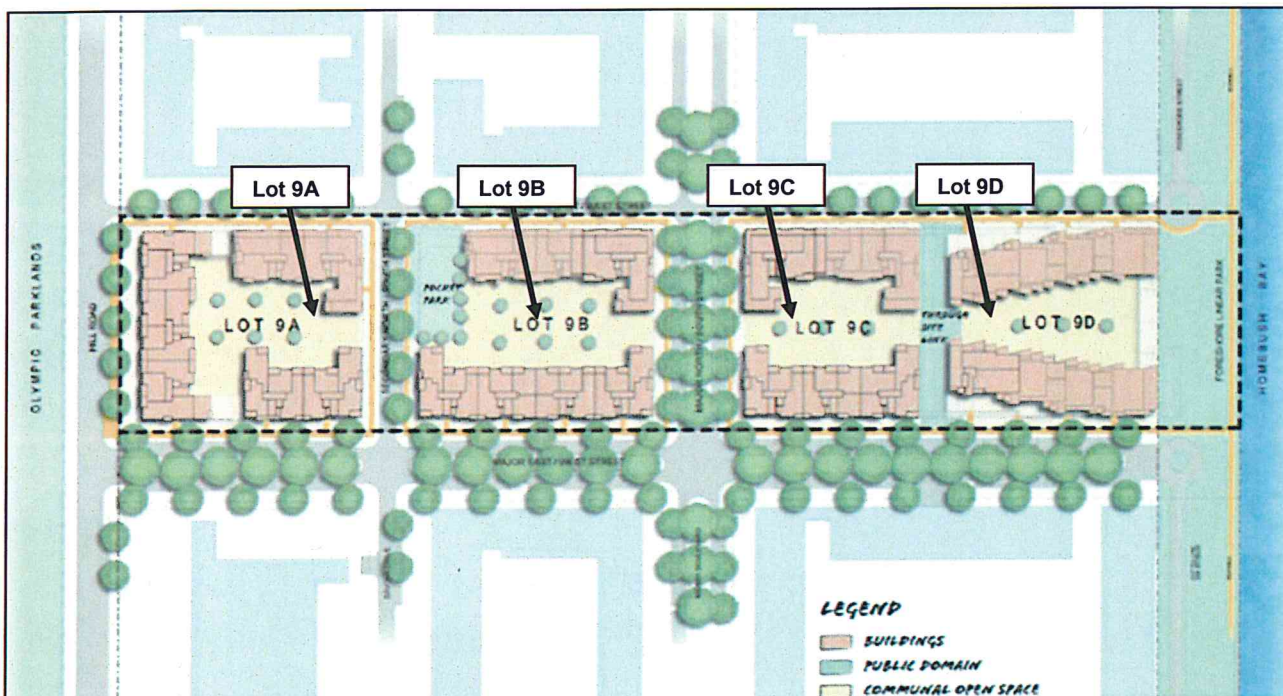


Figure 2: Approved Concept Plan building footprints

Part 4 Approvals

The proponent has lodged a number of development applications with Auburn City Council (Council) to carry out development in accordance with the Concept Approval, as detailed below.

On 27 September 2010, Council granted development consent (DA 235/2010) for early works including the demolition of existing structures, importation of landfill and turfing of the site, including retaining walls and fencing.

On 19 December 2011, Council granted development consents (DA 308/2012 & DA 309/2012) for the construction of Blocks 9D and 9C respectively. The applications were subsequently modified on 23 May 2013 and comprise 147 and 156 units respectively over basement car parking and associated works.

On 31 December 2011, Council granted development consent for the subdivision of the subject site into three lots (DA 109/2011).

On 7 February 2012, Council granted development consent to DA 462/2010 that allowed for public domain and infrastructure works comprising roads, parks, services and associated works.

On 8 August 2013, Council granted development consent for Block 9A, including 185 units over basement carparking and associated works.

Commenced Works

Construction has commenced on Blocks 9A and 9D. Early works and public domain works across the site have also commenced. However, the proponent has advised that the existing development consent for Block 9C would be surrendered should this modification request be approved and a new development application would be lodged with Council to utilise the additional floor space and building heights allowed under the modified Concept Plan.

1.4 Homebush Bay West Development Control Plan

The site is subject to the provisions of Sydney Regional Environmental Plan No 24 – Homebush Bay Area (SREP 24). The Homebush Bay West Development Control Plan 2004 (HBW DCP) provides the masterplan for the locality, identifying 6 development precincts (A – F) as shown in **Figure 3**. The site is within Precinct C.

The Concept Plan for this site was approved having regard to the provisions of the SREP and the HBW DCP, which were both in force at the time of the original assessment. Development may be carried out pursuant to the Concept Plan approval subject to development consent from Council.

On 31 July 2013, the HBW DCP was amended allowing for an uplift in development yield for Precincts B, C, D and E (refer **Figure 3**). The uplift equates to 115,000m² additional floor space across the 4 precincts, of which an additional 32,894m² was allocated to Precinct C (the subject site). To achieve the uplift, the DCP incorporated increased building heights including towers up to 25 storeys in height (refer **Figure 4**).

The amendment to the HBW DCP was made in conjunction with a Voluntary Planning Agreement (VPA) between the Roads and Maritime Services (RMS) and a consortium of landowners. The VPA provides for the funding and construction of the Homebush Bay Bridge which will provide public transport, pedestrian, and cycle access to the nearby Rhodes Peninsula. The bridge will provide significant public benefits in terms of improving transport and access to the area. Construction work on the bridge is due to commence in mid 2014.

Although an additional 32,894m² of floor space was allocated to Precinct C under Amendment 1, this figure takes into account the Concept Approval for the site which included a transfer of 8,994m² floor space from Precinct F to Precinct C. In reality, the amendment therefore results in additional floor space of 24,000m² above the existing concept approval for Precinct C.

This modification request seeks to reciprocate the uplift allowed by the HBW DCP. The Council cannot approve development applications that are inconsistent with the Concept Approval and as such the developer cannot currently utilise the additional permitted floor space under the HBW DCP controls, despite their contribution to the funding and construction of the bridge.



Figure 3: Area of HBW DCP (in green) and area of Amendment 1 to HBW DCP (in red)

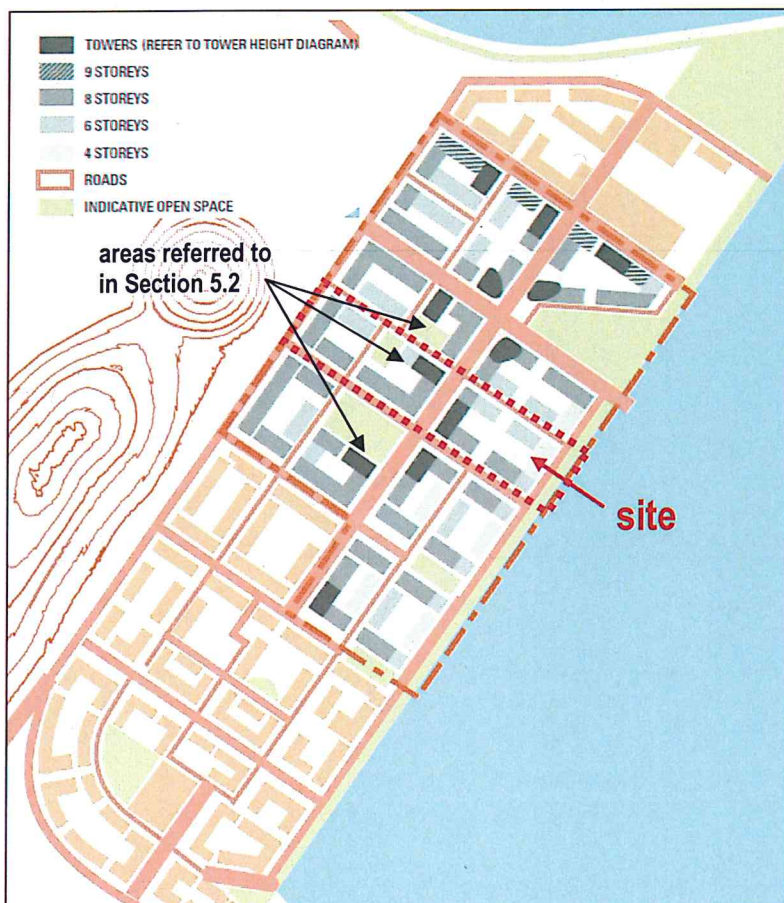


Figure 4: Building Height Diagram HBW DCP Amendment 1

2. PROPOSED MODIFICATION

2.1 Modification Description

The application as submitted sought to modify the Concept Approval to:

- (a) amend the building envelopes of Blocks 9B (from a maximum of 8 to a maximum of 25 storeys) and 9C (from a maximum of 8 to a maximum of 20 storeys) to reflect the envelopes of the HBW DCP;
- (b) amend building envelopes of Blocks 9A and 9D to reflect existing approved DAs for those sites;
- (c) increase residential floor space by 24,000m² from 50,424m² to 74,424m² and floor space ratio from 1.58:1 to 2.33:1;
- (d) increase dwelling numbers from around 685 dwellings to around 996 dwellings;
- (e) increase basement carparking areas to extend under proposed roadways to permit additional parking in conjunction with increased dwelling numbers;
- (f) amend the open space layout and design;
- (g) delete conditions requiring a restrictive covenant limiting floor space on a nearby site (Precinct F);
- (h) add a new condition and / or statement of commitment specifying residential and retail visitor parking rates;
- (i) provide 100m² of new retail floor space; and
- (j) include specific standards for disabled parking design.

Following concerns raised by Council, inclusion of specific standards for disabled parking design ((j) above) was deleted from the modification request. Following a query raised by the department, the retail space ((i) above) was also deleted. Open space areas and building heights were clarified and amended.

The modifications outlined in (a) – (h) are now sought with the exception of retail car parking rates in (h).

A comparison of the building envelope heights is provided at **Figures 5 and 6**.

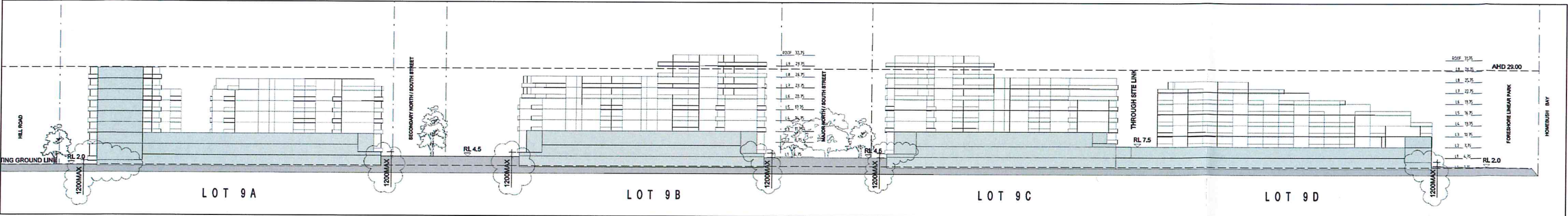


Figure 5: Approved Concept Plan Section

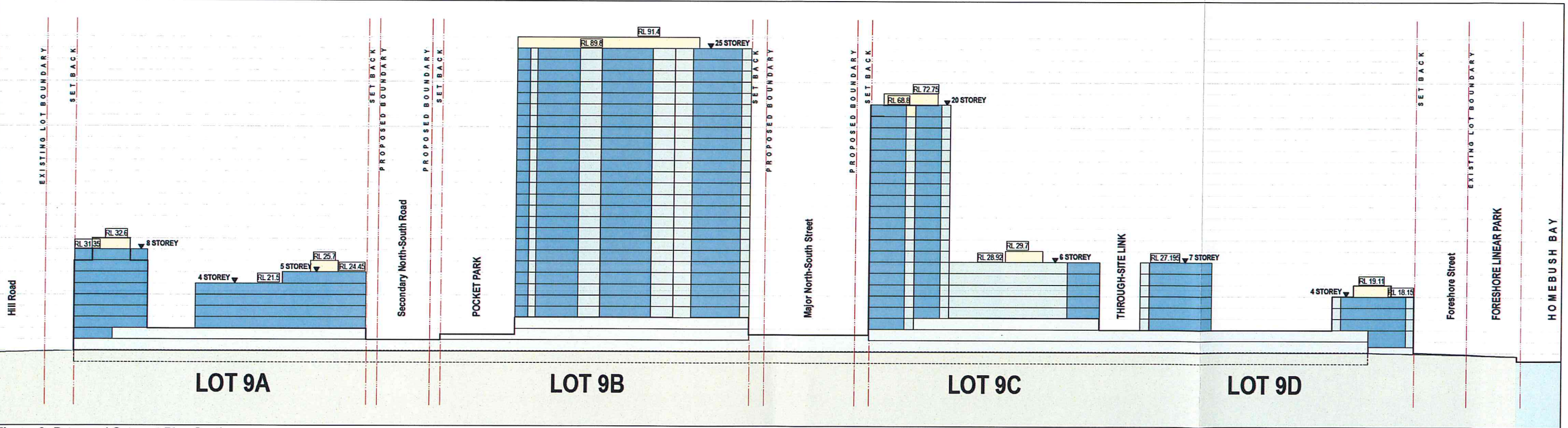


Figure 6: Proposed Concept Plan Section

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with Clause 3 of Schedule 6A of the EP&A Act, Section 75W as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and the associated regulations, and the Minister (or her delegate) may approve or disapprove the proposed modifications to the Concept Approval under Section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

Section 75W(2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend the terms of the approval and to update the schedule of approved drawings, the modification requires the Minister's approval.

3.3 Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Secretary scope to issue Environmental Assessment Requirements that must be complied with before the matter will be considered by the Minister. In this instance, it was not considered necessary to notify the proponent of environmental assessment requirements as sufficient information was provided to the department to consider the application.

3.4 Delegated Authority

Under the Minister's delegation of 14 September 2011, the Director Industry, Key Sites and Social Projects may determine the application as Auburn Council has not objected to the application; no political donations have been disclosed on this or any previous application, and no public submissions were received.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act and clause 8G of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), the modification request was publicly exhibited from 12 February 2014 until 13 March 2014 (30 days). The documents were available on the department's website, and at the following locations:

- the department's Bridge Street Information Centre; and
- Auburn City Council's Customer Service Centre.

The department also advertised the public exhibition in the *Sydney Morning Herald* and the *Daily Telegraph* on 12 February 2014 and notified landholders, and relevant State and local government authorities in writing.

4.2 Submissions

Council raised no objections to the modification as it will remove the inconsistency between the HBW DCP and the Concept Approval for the site. However Council advised that consideration should be given to:

- SEPP 65 and the Residential Flat Design Code, particularly with respect to building separation and solar access;
- design and location of open space; and
- parking and traffic controls, in particular the proposed parking provision and adaptable parking design.

The EPA advised it had no comments to make in relation to the proposed modifications.

No other submissions were received.

5. ASSESSMENT

The department considers that the key environmental assessment issues associated with the proposal are:

- density;
- building envelopes and heights;
- car parking provision;
- open space provision; and
- deletion of restrictive covenant

5.1 Density

It is proposed to increase floor space by 24,000m² (to a total floor space of 74,424m²) and therefore increase dwelling numbers by 311 units (to a total of 996 units).

The proposed increase in density is consistent with the floor space permissible under the HBW DCP. The increased density is supported on the basis of the improvements to traffic and transport arising from the new bridge.

With the provision of the new bridge, the site will be strategically located to provide for increased densities given its improved proximity to public transport and retail services on the Rhodes Peninsula. The bridge will provide increased public transport services to the site and will also result in the site being within a short walk (less than 1 km) to Rhodes Railway Station and with significantly improved access to retail series at Rhodes Shopping Centre. The department supports the provision of increased residential densities within walking distance of local centres and public transport in line with the key objectives of the Metropolitan Plan.

5.2 Building Envelopes and Heights

It is proposed to amend building layouts and increase building heights on Blocks 9B and 9C. The primary change is the introduction of 2 high rise towers, being a 25 storey tower on Block 9B and 20 storey tower on Block 9C, representing a significant increase in height from the Concept Approval which provides a maximum of 8 storeys on each block. No changes are proposed to Blocks 9A and 9D which will remain as previously approved.

The proposed building envelopes in Blocks 9B and 9C are generally consistent with the envelopes and maximum building heights depicted in the HBW DCP, with the exception of the north-western portion of Block 9B. The DCP indicates a maximum height of 6 storeys for the north-western portion of the building (adjacent to the pocket park), however the proposal provides a 25 storey height for the entire length of the tower, as shown in red in **Figures 7 and 8**. At the same time other parts of Blocks 9B and 9C would not include development above the podium level, where HBW DCP would permit a height of 8 storeys as shown in blue in **Figures 7 and 8**.

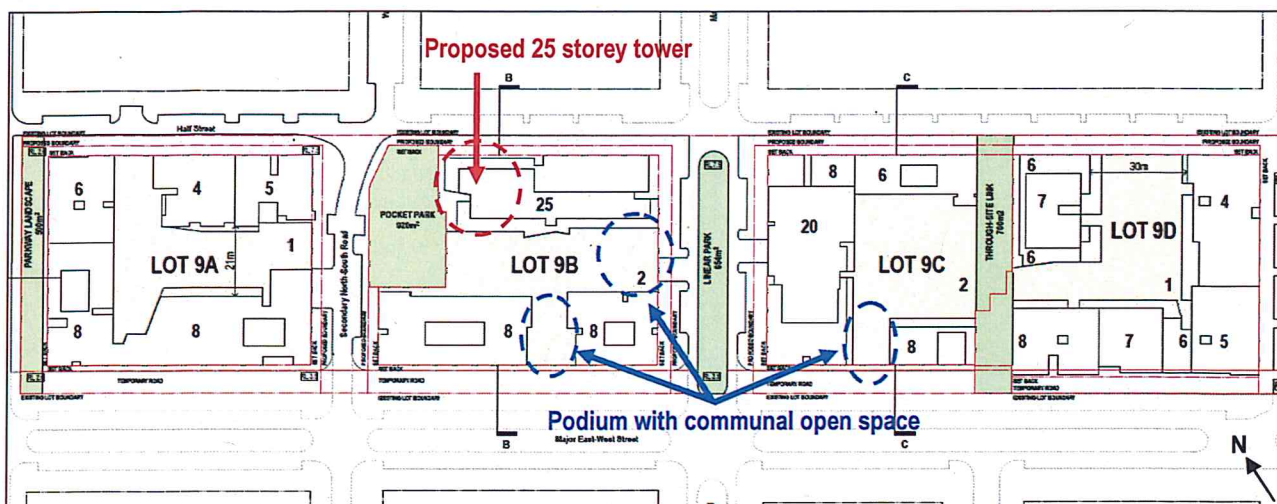


Figure 7: Proposed Plans

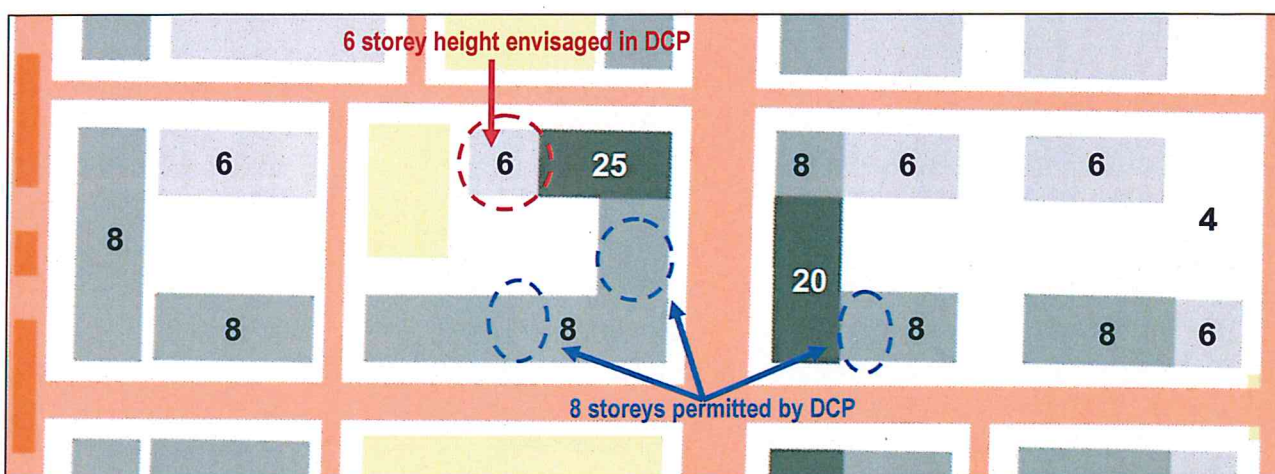


Figure 8: Extract from HBW DCP Building Height Diagram indicating permitted storeys

The additional height and building massing in the north-western portion of Block 9B is therefore offset by reduced heights and massing in other sections of the Blocks 9B and 9C. Further, permitted increases in heights in Blocks 9A and 9D under Amendment 1 to HBW DCP are not being utilised as those blocks are currently under construction and will remain as previously approved by Council.

It is noted that the building envelopes shown in HBW DCP are indicative only and that the DCP allows for locational adjustment as required.

The department considers that the adjustments to the building envelopes, including the provision of 25 storeys adjacent to the pocket park is acceptable in this case as:

- the incorporation of breaks in building massing to provide podium level communal open space improves site permeability and reduces the appearance of building massing, improving the visual impacts of the development at street level;
- HBW DCP envisages towers being located immediately adjacent to open space in other locations (refer to **Figure 4**).
- the 25 storey tower is proposed to be located to the south-east of the park, and would result in no additional overshadowing impacts to the park as compared to a 6 storey element;
- the floor plate of the tower remains below the maximum of 950m² floor area, as required by the DCP to ensure tall and slender forms and to avoid monolithic buildings;
- no material view impacts arise from the increased height at this location, noting the location and height of other towers in the area; and
- the tower would be capable of providing a suitable visual interface with the park, subject to appropriate façade treatments to ensure the perception of a pedestrian scale to the tower as

viewed from within the park. In this regard a modification is recommended to ensure appropriate façade treatments are incorporated in the future DA for the site.

5.3 Car parking provision

The HBW DCP requires residential visitor parking be provided at a rate between 1 space per 12 dwellings (minimum) and 1 space per 8 dwellings (maximum). The application seeks to specify residential visitor car parking rates for the assessment of future development applications at a rate of 1 space per 12 dwellings.

The proponent advises it has requested the inclusion of the residential visitor rates within the Concept Approval as it has found that Council is mandating that resident visitor parking be provided at the maximum rate of 1 space per 8 dwellings, despite the DCP allowing for flexibility in parking rates. It advises that this approach has been taken by Council to address resident concerns that there is a shortage of on-street and visitor parking in the area.

Council advised that it did not support the proposed parking rate and that parking should be provided as a minimum in accordance with the HBW DCP.

The department notes that the ability to provide parking on the site is limited due to much of the site being on reclaimed land which restricts the ability to provide basement car parking. Parking is provided above ground and architecturally treated by changes to the surrounding ground levels and through sieving with residential floor space. The proponent advises that limiting the amount of parking is therefore essential to achieving optimal built form outcomes.

Furthermore, the proponent considers that the current high demand for parking in the area will be reduced over time. Public transport from the site will be significantly improved as development of the area proceeds and with the implementation of the Homebush Bay Bridge due for completion in 2016.

The department has considered the arguments provided by proponent and Council and considers that the proposed visitor parking rate of 1 space per 12 dwellings is acceptable as:

- it is consistent with the provisions of the DCP;
- is a suitable rate to ensure the long term parking needs of the site are met;
- it will encourage non-car forms of travel; and
- will assist with ensuring the best urban design outcome for the site.

A new term of approval is therefore recommended to this effect.

5.4 Open Space

Council requested that the department consider the availability, design, and location of open space, having regard to the existing conditions within the precinct as a whole.

The proposal as modified would include 3,994m² of public open space including:

- a pocket park of 920m² in Block 9B;
- a foreshore linear park of 1,220m²;
- a through site link of 700m²;
- a linear park of 654 m²; and
- a setback area on Hill Road of 500m²

This exceeds the 3,823.6m² of public open space provided for in the approved Concept Plan. More critically, this is significantly greater than the 3,195m² required by the HBW DCP which also takes into account the additional densities on the site.

The layout and location of the proposed open space also remains generally consistent with both the existing Concept Approval and the HBW DCP and provides for a range of spaces enabling

passive and active recreation, pedestrian connectivity, as well as opportunities for extensive plantings to make a positive contribution to the landscape character of the area.

Communal open space at the podium level is also generally consistent with the existing approval in terms of location and size and exceeds the HBW DCP minimum size requirements of 7,986m² (25% of the site area).

Private open space is a matter for consideration at the more detailed development application stage and the proposed Concept Plan remains capable of delivering adequate private open space.

The department therefore considers that open space provision under the modification would be appropriate and consistent with the level of open space provided under the existing approval and as expected under the HBW DCP.

5.5 Deletion of Restrictive Covenant

The proposal seeks to delete Modification B8 and Statement of Commitment No 1, which provide that a restrictive covenant is to be placed on land outside the site, known as Precinct F, to restrict floor space on that site to 227,848m². The modification was originally imposed as the Concept Plan for the subject site (known as Precinct C) sought to transfer some of the allowable floor space (8,994m²) from Precinct F to Precinct C.

At the time of the Concept Approval, both precincts were under the same ownership, but since the approval was granted, Precinct C has been bought by new owners (Sekisui House – the current proponent) and Precinct F has been developed and subdivided, with much of the site now under strata title or otherwise not under the ownership of Sekisui House. The proponent therefore has no power to impose a restrictive covenant on land within Precinct F.

In its assessment of the DAs within Precinct C, Council sought legal advice on this matter. As a result, Council waived compliance with Modification B8 as it recognised the difficulty with compliance with these requirements. Further, Council considered that the intention of the requirement had been achieved in any case. Total approved floor space within Precinct F was calculated to be 230,279m², and although this exceeds the figure set out in modification B8, is still 6,563m² less than the permitted maximum under the planning controls (equivalent to 73% of the floor space sought to be transferred).

Further, as discussed above in **Section 1.4**, the additional floor space permitted by Amendment 1 to HBW DCP included both the additional 8,994m² approved through the Concept Approval as well as the additional 24,000m² now sought.

The department considers that given the amendments to the DCP, the proponent no longer needs to rely on a transfer of floor space from another site to achieve the floor space sought. As the proposal complies with the amended DCP with regards to floor space, it is appropriate that Modification B8 and Statement of Commitment B1 be deleted.

6. CONCLUSION

The department has considered the proposed modifications to the Concept Plan and the key issues associated with these modifications. The modification request generally accords with the increased building height and floor space provisions of Amendment No. 1 of the Homebush Bay West Development Control Plan.

The department has considered the key environmental impacts of the proposed modification in relation to density, built form, car parking and open space.

The increased density is supported in accordance with the strategic analysis undertaken in the preparation of the HBW DCP and the site's improved access to public transport and services achieved through the delivery of the Homebush Bay Bridge.

The increased building height is generally consistent with the HBW DCP and is considered appropriate in the context of other towers in the locality.

The proposed visitor parking provision is also considered acceptable, noting it is consistent with the HBW DCP, the site's good access to public transport, the need to encourage non-car forms of travel and the constraints of the site in relation to providing basement car parking.

The department considers that the proposed modifications will result in a residential development which is consistent with the concept approval and maintains the site's suitability for the development.

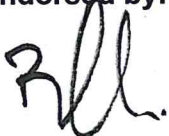
It is therefore recommended that the modification application be approved, subject to conditions, as outlined in the recommended Modifying Instrument.

7. RECOMMENDATION

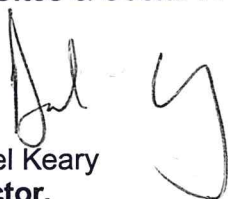
It is recommended that the Director, Industry, Key Sites and Social Projects, as delegate for the Minister for Planning:

- (a) **Consider** the findings and recommendations of this report.
- (b) **Approve** the modifications under delegated authority, under Section 75W of the Environmental Planning and Assessment Act 1979.
- (c) **Sign** the attached instrument of Modification for MP06_0098 (MOD 2).

Endorsed by:



Ben Lusher
Manager,
Key Sites & Social Projects



Daniel Keary
Director,
Industry, Key Sites & Social Projects

26/7/14

APPENDIX A

MODIFICATION REQUEST

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX B RECOMMENDED MODIFYING INSTRUMENT
