

## **SUBMISSION ON MODIFICATION APPLICATION FOR MP10\_0165 FOR RESIDENTIAL DEVELOPMENT AT 5 WHITESIDE STREET AND 14-16 DAVID AVENUE, NORTH RYDE**

This submission has been prepared in response to a Section 75W Modification application for the approved Concept Plan at 5 Whiteside Street and 14-16 David Avenue, North Ryde. The application is seeking to amend the current approval in the following ways:

1. Amendments to Conditions A2, B1 and Condition 1(c) of Schedule 3 to update the approved plans and documentation (to reflect the sought changes).
2. Amendment to Condition A3 to amend the building envelopes and separation.
3. Amendment to Condition B3 to allow for a maximum development yield of 164 units (and an amended unit mix) or an increase on the current cap of 135 (+29).
4. Amendment to Condition B5 to confirm the proposed car parking rate will not exceed the lower rate for residential flat buildings provided within Ryde DCP 2014.
5. Amendment to Condition B6 relating to balconies of Level 2 of Building B.

### **Context**

Council's comments are provided in a context which recognises that a Concept Plan for the subject site has been approved which has provided significant uplift for the height of buildings and floor space ratio for land that was zoned R2 (Residential Low Density) under the prevailing local planning scheme. As such, it is not Council's intention to revisit the arguments and concerns previously presented on these aspects of the development. The approach proposed is to raise matters that:

1. Protect the interests and amenity of the existing community;
2. Promotes a development of the site that is optimal in terms of both functionality and amenity - in the interests of future residents of the site. In this regard, Council is seeking a development proposal that will be capable of a smooth and logical merit assessment in accordance with the provisions of the Environmental Planning and Assessment Act.
3. Recognises the uplift provided to the site in an appropriate return to benefit the existing community and future residents.

### **Implications of Proposed Changes**

At the basic level, the proposed changes will provide the following impacts:

- A higher resident population for the site;
- Additional car parking for the site and hence additional traffic in local streets; and
- Additional overshadowing of some adjoining properties.
- Increased building separation (from Building B to properties in Parklands Avenue) but introduces potential overlooking due to the altered orientation of balconies to the rear.

An important consideration is whether or not the proposed modification provides for a superior outcome from the proposed development application than would have eventuated from the original Concept Plan approval. The modification should only be supported if better outcomes are demonstrated.

## ISSUES

### Increase in Unit Numbers

The modification proposes an increase in the number of units on site within the approved floor space ratio (FSR) and with an increase in height over part of the approved building envelope. The increased numbers is achieved by changing the mix of units and amending the layout generally within the approved envelope – resulting in 29 more units as shown in the table below.

UNIT TYPE	APPROVED			PROPOSED		
	QUANTITY	%		QUANTITY	%	
1 BED	20	15%	27.4%	5	3%	42.7%
1 BED + S	17	13%		65	40%	
2 BED	85	63%	65.9%	18	11%	50.6%
2 BED + S	4	3%		65	40%	
3 BED	9	7%	6.7%	11	7%	6.7%
<b>TOTAL</b>	<b>135</b>			<b>164</b>		

The change is sought to be justified based on changing demographics and market demand. Council has previously raised concern with the earlier modification of other Part 3A developments in the locality that a consideration of what the market demands at a particular point in time should not drive longer term planning outcomes. That general concern remains but it is noted that it was in part due to an approach that led to larger units (i.e. 3 bedrooms) being deleted altogether from proposed developments. In this case, it is noted that 3-bed units represent 7% of the offering for this development and that the 2-bed + study option is increased as a proportion of the total development.

Given that the larger unit option remains available and there is no increase in FSR, Council is open to considering the proposed unit mix subject to the following matters being:

- The proposed “studios” are genuine studios and not de facto bedrooms or enclosed spaces capable of being used as a bedroom. The detailed designs the units have not been provided at this stage. Any modification should be conditioned to require that studios be in the form of a nook or similar layout and the overall amenity of each unit not be compromised. This will be assessed with the development application.

- Any modification conditioning the proposed unit yield as an absolute upper limit. The terms of any approval should enable a reduced yield to be considered where it is warranted by detailed design including compliance with SEPP 65.
- The requirement for at least 7% of units to be 3 bedroom units being explicit in the conditions of approval.
- Car parking at the minimum rate set by Council's Development Control Plan (as proposed by the application) for Residential Development –Higher Density (Residential Flat Building).
- Implementation of the existing conditions of approval addressing traffic in local streets and improved pedestrian access.
- The terms of any approval not constraining Council in seeking improvement to the overall design at development application stage, based on expert advice and within the requirements of the Act. In other words, there are still a number of detailed design issues to be resolved for the site (including waste management and internal vehicle movement) and Council would like to be in a position to deal with such matters without the need for further modification of the Concept Plan.
- No increase in height that impacts on adjoining development.

Additional comments are provided below on these matters.

### **Built Form**

In its submission to the original Concept Plan application, Council sought a cap on the total number of units for the development in order to give certainty for the local community on the scale of any future development. This was also to provide clarity for any future purchaser of the development site on potential yield including an expression of Council's view on the public record.

It is recognised that the new owner has the choice to reconsider the approved design and to seek modification through the established channels. This process has also provided the community with the opportunity to assess the overall impact of those changes.

For any modified design, Council believes that there are certain parameters that need to be met. These include:

1. No increase in approved height.
2. No increase in shadow impact.
3. Demonstrated compliance with SEPP 65 requirements.
4. Internal layouts with genuine studios (not enclosed bedrooms).
5. Efficient layouts in keeping with best practice guidelines.

The detail has not been provided at this stage for certainty in this regard. A Local Development Application is required to be submitted and in assessing any future LDA, Council does not wish to be placed in a situation where it is required to consider refusal of the application because the internal layouts of the buildings are unsatisfactory. In this regard, Council commends the comments of its independent Urban Design Review Panel in highlighting a similar concern that the overall design requires some further work to ensure that all units provide a satisfactory level of utility and amenity. A copy of the Panel's advice is attached.

The Urban Design Review Panel is generally supportive of the proposal within the context of what has been approved as a Concept Plan but it suggests changes to improve the design and particularly to avoid creating an impact due to overshadowing due to the proposed modification.

### **Increased Heights for Building A and B**

The modification application seeks an increase in unit numbers from 135 to 164. However, the additional yield is not accommodated within Buildings A and B without an increase in the approved heights. As a consequence there is an additional shadow impact on adjoining properties in David Avenue. Council's preferred option would be for the new yield to be set at a number that means that there is no additional shadowing of these properties. In other words, Council is willing to accept a change in the mix of unit types that increases the total number of units above 135 (due only to that change in mix) but that the extent of that increase should be limited to a number that results in a built form that causes no additional adverse impact on surrounding properties. This may mean that the number of units created will be less than 164.

The logic of this approach is that the site has already benefitted from a significant uplift in height and floor space ratio by virtue of the current Concept Plan approval. As such, there is an identifiable shadow impact that goes beyond what would have been the case had the land been developed in accordance with the applicable R2 zoning. Any additional benefit that derives from an increase in unit numbers should not be permitted to increase that impact.

At the Concept Plan stage, it is difficult to confirm the appropriate number and mix of units that will achieve the above outcome. The Department may choose to have it demonstrated as a condition of consent should it be of mind to support the modification in general terms e.g. *Condition B7 - Final Concept Plan - Submission to Secretary-General*.

### **Unit Mix**

Council supports retention of a proportion of 3 bedroom units in any revised mix. It is noted that the number of these units has increased by 2 although the percentage figure has remained at 7% of the total. It is considered important to have the 3 bedroom option available to provide a variety of housing types for the community. Overall, the change in the proportion of 1, 2 and 3 bedroom units proposed is acceptable on the proviso that the detailed design of the units does not seek to include the "studio" as a de-facto bedroom.

## **Car Parking Rate**

The adoption of the lower rate for car parking as per Council's Development Control Plan 2014 is accepted. Adopting the lower rate is in keeping with the characterisation of the development as "transit oriented" with good access to public transport options.

## **Traffic**

Based on advice contained in the modification application, an additional 12 parking spaces is proposed, taking the total number on site from 142 to 154. Traffic management in and around the site remains an issue for this development but the scale of the increase does not warrant more than an reiteration of concerns already raised in this regard and proposed to be addressed in conditions of approval attached to the current Concept Plan.

## **CAPTURING COMMUNITY BENEFIT**

A priority matter for Council – and one that is difficult to negotiate through the Part 3A process – is how the uplift offered to such development sites is matched by a return benefit to the local community. In this case, Council has sought that the uplifted development contribute to the improvement of local traffic management and better pedestrian accessibility, particularly to transport and other services in Macquarie Park. The details of how these will be realised remain unclear. However, it is noted that the proposed modification has not sought amendment to condition relating to the Local Area Traffic Management Plan and pedestrian access, so work will need to continue on resolving these conditions of consent.

## **Additional uplift**

If approved, the change in unit yield will provide an additional 29 units for the development. What additional benefit will accrue to the local community as a result of this additional uplift? The Section 75W process does not provide an effective mechanism for Council to negotiate with the developer on what might be reasonable or achievable. For the case in point, the Whiteside site was sold by the original proponents as soon as it was approved. Any understanding of what may have been expected by the community or Council was not part of that transaction. At this stage, no firm figures have been placed on the funding of consequential works arising from the LATM or for improved pedestrian access.

There appears to be no formal means within the Section 75W process to explore the issue of returning some of the betterment provided to this site to the community. However, Council would like to pursue the possibility that a proportion of the additional uplift could be returned in the form of Affordable Housing i.e. a unit dedicated to Council for community housing. Council would welcome the opportunity to discuss this matter further and to receive feedback from the proponents prior to determination.

## **PLANNING ASSESSMENT COMMISSION**

As the original application was determined by the Planning Assessment Commission, Council considers it appropriate that the PAC should determine the subject modification. The proposed development remains a matter of considerable interest to the local community and the open and accessible nature of the PAC process is valued.

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ATTACHMENT: Urban Design Review Panel Comments

## URBAN DESIGN REVIEW PANEL & PRELODGE MENT ADVICE

**PROPERTY:** 5 Whiteside Street, NORTH RYDE

**MEETING DATE:** 13 October 2014 **TIME:** 10.00am

**PRELODGE MENT No:** PRL2014/36

**DEVELOPMENT:** Residential Apartment Buildings

**ATTENDANCE:** Urban Design Review Panel  
Gabrielle Morrish  
Matthew Pullinger

**Proponents:**

Ashleigh Ryan, Urbis  
Andrew Harvey, Urbis  
Steve Zappia, Marchese Partners  
Mitchell Bradford, Marchese Partners  
Anne Coutts, Traffix  
Ken Chan, NGC (Project Manager)  
Leo Zhou, NGC

**Council:**

Glenn Ford, Client Manager  
Zia Ahmed, Client Manager

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### NOTES FOR PROPONENTS

The purpose of the meetings is to discuss your proposal with both Council's Urban Design Review Panel (UDRP) and Prelodgement Panel. The UDRP and Prelodgement Panels will endeavour to provide information which will enable you to identify issues that should be addressed in any application.

However, the onus remains on the applicant to ensure that all relevant controls and issues are considered prior to the submission of the application. The Panel's comments are based on the level of information you have provided in those meetings.

The UDRP and the Prelodgement Panel's advice and comments do NOT constitute a formal assessment of your proposal and at no time should these comments be taken as a guarantee of approval of your proposal.

## **URBAN DESIGN PANEL REVIEW NOTES**

This is the first time the Panel has reviewed a pre-DA proposal on this site by the proponent.

There is a Concept Plan Approval in place governing development on the site. A separate application to modify the existing Concept Plan Approval is currently being considered by the Department of Planning. The Panel understands that the pre-DA proposal being reviewed today is predicated on approval of the s75W modification by the Department.

On this basis, the Panel offers its advice 'without prejudice' to protect the interests of both Council and the proponent in the period up to determination of the s75W modification.

The Panel thanks the proponent and their architect for a clear presentation of the proposal and its relationship to the existing Concept Plan approval.

The subject site is situated on a busy road and mediates between adjacent lower density detached residential dwellings. Two residential apartment buildings (A and B) are sited over a united basement. Two smaller buildings (C and D) are also proposed in the immediate context of existing adjacent detached dwellings.

### **Planning controls**

The revised proposal is generally consistent with the approved Concept Plan. Building A exceeds the approved envelope to a minor extent – this is discussed further below.

Building B's footprint is considerably reduced but maintains the approved height. Consequently, building separation between existing dwellings and the proposed Building B is increased.

Buildings C and D are consistent with the Concept Plan Approval.

The Panel notes that the proposal includes an additional 29 dwellings beyond the Concept Plan Approval.

### **Design Approach**

The proposal represents a relatively minor adjustment to the approved Concept Plan.

Building A encroachments beyond the approved envelope are relatively minor, but detailed analysis of potential overshadowing impacts to neighbouring dwellings and their private outdoor space needs to be presented, with a justification for any additional overshadowing when compared to the approved Concept Plan. The Panel encourages a design solution that creates no additional overshadowing when compared to the existing approved envelopes.

Building B separation to neighbouring properties to the south improves. Care needs to be taken to ensure the increased number of dwellings in Building B balance outlook and privacy issues to the south.



Beyond these issues, the Panel has the following specific comments with more detailed aspects of the proposal:

- The internal street system needs further resolution. Currently a one way street is proposed through the centre of the site. The Panel supports the notion of low speed, low volume vehicle movement through the site. The central portion of the internal street may be better configured as a two way street. In any case, connected, continuous pedestrian footpaths are necessary on both sides of all new internal streets.
- In the basement level, the issues of waste management, vehicular circulation and storage for apartments need to be developed to demonstrate they can be satisfactorily resolved.
- The proposed loading bay – although consistent with the Concept Plan approval – could be better configured to reinforce the previous point.
- Any internal space configured as a study, without immediate access to natural light or ventilation, should not be able to be adapted by a purchaser to create an illegal 'inboard' bedroom.
- The Panel discourages the design of bedrooms which access natural light and ventilation via a 'snorkel' – a proportionally long/narrow corridor from the room to a window at the building perimeter. Bedrooms are habitable spaces and must demonstrate quality internal amenity – the snorkel solution is generally not acceptable.

## **Recommendations**

The Panel supports the general design approach and, with the adoption of these suggested amendments, recommends that the DA be lodged and reviewed again by the Panel – all pending approval of the s75W application currently being assessed by the Department.

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