

3 May 2016

Our Ref: P15-190

Ben Lusher - Director, Key Assessments
NSW Department of Planning & Environment
23 - 33 Bridge Street
SYDNEY NSW 2000

Dear Ben,

**RE: MODIFICATION REQUEST FOR SHEPHERDS BAY CONCEPT PLAN MP09_0216
MOD2 - RESPONSE TO SUBMISSIONS (STAGE 2/3 & 8/9)**

City Plan Strategy and Development Pty Ltd (CPSD) has been engaged by the proponent, Holdmark, to respond to NSW Department of Planning & Environment's (DPE) correspondence dated 21 March 2016 in relation to the abovementioned application.

Please be advised that this correspondence refers to those items in DPE's correspondence which relate to Stage 2/3 and 8/9 only. Separate correspondence will be submitted with regard to the Stage A items referred to in DPE's correspondence. Please note that Holdmark intend to retain all stages within the currently submitted modification application.

The structure of our detailed response below relies largely on the sub headings provided in DPE's original correspondence dated 21 March 2016, followed by our explanatory information. The explanatory information may refer to architectural plans and impact reports, which accompany this correspondence separately as appendices.

1. Traffic Impacts & Car Parking

The traffic impact assessment reports (i.e. for stage 2/3 and 8/9) submitted with the application to date have been reviewed and are replaced with a consolidated traffic impact assessment report (refer to **Appendix A**). The report includes traffic generation comparisons as requested at item 10 of DPE's correspondence.

2. Stage 2 and 3 (Building heights and number of storeys on steeply sloping land)

The increase in height for Stage 2/3 is justified on the basis that the increase is very minor (i.e. only 300mm), and largely as a result of the existing Deed of Agreement between Ryde Council and Holdmark. It remains consistent with the concept approval, as modified. Specifically, the deed included an additional storey within Stage 2/3. However, if the additional storey was

retained within the existing approved height limitations, it would result in a floor to ceiling clearance of 2565mm which is noticeably less than the minimum 2700mm prescribed by the Building Code of Australia. Therefore, it was decided to propose a minor increase to both the 'Maximum Number of Storeys Above Ground Level (Finished) Plan', as well as the 'Building Envelope Control Plan', which would accommodate the additional, compliant storey.

The impacts arising from the modified building envelope are, on balance, positive. The additional storeys at ground level provide further activation and casual surveillance of the internal courtyard. They also assist with reducing the extent of structural elements required to be constructed over the basement. Finally, it had been demonstrated in the original modification application submission that the relevant amenity requirements of the Apartment Design Guide as well as condition 21 of the Concept Approval (MOD 1) remain satisfied. Specifically, the proposed dwellings satisfy the ADG's solar access requirements, or meet the enhanced amenity and natural ventilation requirements prescribed by condition 21.

To ensure appropriate storey height limits are achieved, we recommend amending the previously approved 'Maximum Number of Storeys Above Ground Level (Finished) Plan' (PPR 002 - D) to reflect the actual proposed number of storeys. Subsequently, we also recommend amending both the Stage 2 and Stage 3 'Building Envelope Control Diagrams' (Figures 16 and 19) such that they accurately show both the proposed RL AND proposed maximum number of storeys. Finally, we also recommend amending the 'Maximum Heights With Setbacks Plan' (PPR 001-F). An amended version of each plan, together with updates to all the concept plans, is included with this correspondence at **Appendix B**. As each plan accurately reflects the maximum proposed RL and maximum number of proposed storeys, Condition 3A of the Instrument of Determination should be deleted in our view.

3. Community Facility

3.1 Plan Comparison

As sought by item 13 of DPE's correspondence, a comparison plan is provided at **Appendix C** (an extract of the plan is provided on the following page). The plan provides a comparison between the approved building on the site which is proposed to be occupied by the Community Facility, and the proposed envelope for the said site. The most obvious modifications to the envelope include a larger footprint (i.e. 286m² v 808m²), and a taller envelope (i.e. RL 9.40 v RL 16.00).

The amendments to the previously approved building envelope are required to:

- Satisfy the spatial requirements of Council as per the signed Deed of Agreement between Ryde Council and Holdmark.
- Comply with the requested requirements of VIVA Energy who are responsible for the pipeline which is immediately adjacent the proposed Community Facility. Correspondence from VIVA Energy outlining the said requirements is provided at **Appendix D**.

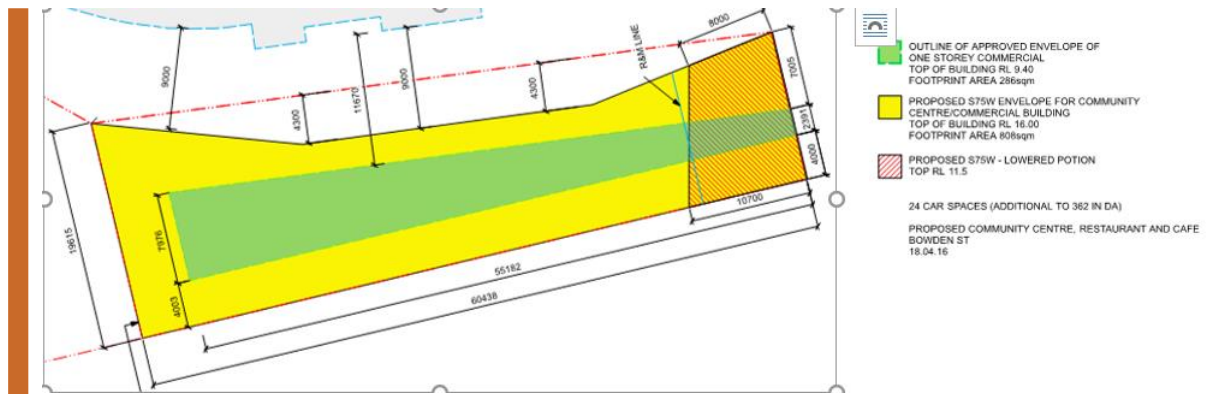


Figure 1: Extract of Community Facility comparison plan (source: Turner)

3.2 Environmental Impacts

Our environmental assessment suggests solar access, view loss, privacy and public domain impacts could arise as a result of the proposed Community Facility. Each of these impacts is discussed in detail below:

Solar Access:

The facility's deeper and taller envelope may reduce solar access to the residential flat building (RFB) currently under construction immediately to the east of the subject site (i.e. No. 146 Bowden Street).

In the first instance, it should be noted that all those rooms, at 146 Bowden Street directly opposite the proposed Community Facility are all bedrooms, with the exception of one room which is a living room (as noted in the plan extract below). Further, most openings on that elevation of 146 Bowden Street (i.e. western elevation) which face the proposed Community Facility include privacy screens. The screens would compromise solar access to the openings on the western elevation of 146 Bowden Street by varying degrees, irrespective of the size of the proposed Community Facility.

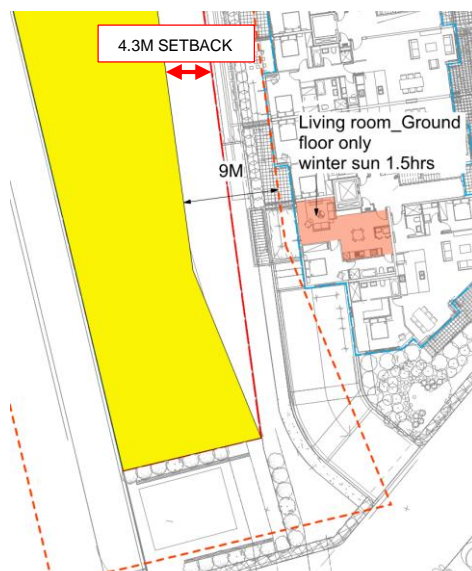


Figure 2: Extract of architectural plans demonstrating solar access (source: Turner)

Turner Architects have produced solar access diagrams, included at **Appendix E**, demonstrating the extent of solar access to 146 Bowden Street as a result of the proposed Community Facility. As recommended by the ADG, all but one of the windows on the western elevation of 146 Bowden Street (i.e. facing the proposed Community Facility), receive at least 2 hours of direct sunlight between 9am and 3pm at mid-winter. The window which would not achieve the recommended 2 hours, is on the ground floor and relates to a living room. This window achieves 1.5 hours access to sun light between 9am and 3pm at mid-winter. This is a minor deviation from the ADG recommendation.

In light of the above, this correspondence provides that any potential solar access impacts are not unreasonable.

View Loss:

A taller and longer building envelope in this particular position may further obstruct views, particularly from those dwellings within the RFB on the opposite side of Bowden Street (i.e. 143 and 141 Bowden Street).

Richard Lamb & Associates (RLA) were engaged to conduct an analysis of such impacts. The results of their assessment is provided at **Appendix F**. During the course of their assessment, RLA recommended modifying the southern 'tip' of the Stage 9 envelope to maintain adequate views from dwellings at 143 Bowden Street to the nearby foreshore, as well as critical elements of the Ryde Bridge. The envelope for Stage 8/9 has subsequently been amended taking into account RLA's recommendation. Overall, RLA's assessment concluded that following the suggested amendments to the Stage 9 envelope, view impacts were acceptable.



Figure 3: Extract from RLA report. Black outline represents the area RLA has recommended to be removed. The concept plans have been amended to reflect the recommendation.

Privacy Impacts:

There may be perceived adverse privacy impacts, particularly as a result of a taller Community Facility, to the RFBs at 146 Bowden Street and 141 - 143 Bowden Street.

In relation to the dwellings forming part of the RFB at 141 - 143 Bowden Street, any privacy impacts as a result of the Community Facility would be negligible. This would be because of the substantial separation (approximately 21 metres) provided as a result of the Bowden Street road reserve.

The RFB currently under construction at 146 Bowden Street includes privacy screens on most of those windows which face the proposed Community Facility (as demonstrated in the photograph on the following page). Further, the eastern elevation of the proposed Community Facility (i.e. that elevation which faces No. 146 Bowden Street), does not include any windows. Therefore, there would be no direct overlooking from the proposed Community Facility to 146 Bowden Street.

Finally, and despite the proposed Community Facility's wider footprint, substantial compliance is achieved with the building-to-building separation recommendations provided by Objective 3F-1 of the ADG. That is, for developments up to 25 metres in height, the ADG recommends 4.5m side boundary setbacks for non-habitable rooms. The vast majority of the proposed Community Facility is setback 4.3 metres from the side boundary shared with 146 Bowden Street as demonstrated in the extract of the architectural plans on the following page.

In light of the above, this correspondence provides that any potential privacy impacts are minor.



Figure 4: Photograph demonstrating privacy screens to western elevation at 146 Bowden Street (source: CPSPD)

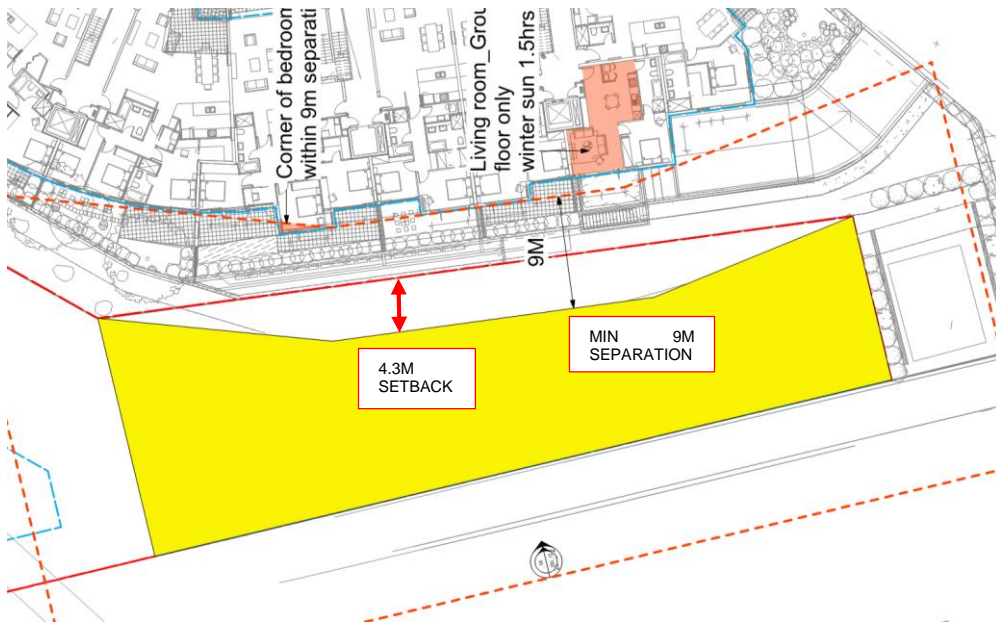


Figure 5: Extract of architectural plans demonstrating substantial ADG compliant separation (source: Turner)

Public Domain:

The proposed Community Facility is taller in comparison to the respective envelope in MP09_216 (MOD 1), although not substantially taller. Nevertheless, the additional height will provide further beneficial streetscape definition. The street facing elevation (western elevation) of the proposed Community Facility is expected to provide a suitable number of windows, thereby increasing casual surveillance over Bowden Street. Given Bowden Street is a primary route towards the Meadowbank Wharf, increased casual surveillance should be highly regarded.

More importantly, and although not strictly related to the proposed building envelope, this particular location greatly improves public access to the proposed Community Facility. That is, MP09_216 (MOD 1) currently places the Community Facility within the lower levels of the Stage 2 southern elevation. This location is less accessible to the public, particularly given it is not in proximity to a conventional road.

Community Facility Likely Use & Size

As part of Concept Approval MP09_216 (MOD 1), as well as the previously mentioned Deed of Agreement, the subject Community Facility will be dedicated to Ryde Council. There are no usage restrictions as part of the dedication process. Therefore, the proponent would not have any particular control in relation to its use. However, general discussions to date with Ryde Council suggests the facility will be used for typical community related services such as Senior Citizen gatherings, community health services, general information sessions and the like.

The main Community Facility hall itself (excluding the previously approved café and restaurant also within the same building envelope), only equates to 500m² of gross floor area (GFA). It is not anticipated that such GFA would be able to accommodate any intensive activities.

The proposed configuration and location of the Community Facility was determined in negotiation with Ryde Council. As part of these negotiations, Council advised their preference was for a facility which was entirely completed (i.e. fitted out and operational with associated secure car parking), as opposed to just a vacant space within a building. Further, it was Council's position, rather than Holdmark's, that a 1000m² hall space was much larger than actually required. Council sought to reduce the Community hall to 500m². However, it should also be noted that the 'Community Facility' to be provided is in excess of 1500m² (including car parking), and thus exceeds the previous requirements in the concept approval.

As stated earlier, the Community Facility as proposed, has been endorsed by Ryde Council and is detailed within the previously mentioned Deed of Agreement.

Subterranean Oil Pipeline

We can confirm that extensive consultation has occurred between the proponent and the operator of the subterranean pipe in proximity to the proposed Community Facility (i.e. VIVA energy). We can also confirm that VIVA Energy has not objected to the proposed Community Facility. Evidence as such is provided at **Appendix D**.

For information purposes, the proposed Community Facility is expected to be three (3) storeys in height, rather than two (2) as indicated in the original modification application submission. The amendment was required to satisfy VIVA Energy's requirements for an 8m clearance above their pipeline. Despite the amendment, the RL of the Community Facility envelope as proposed in the original modification application submission (i.e. RL 16.0), does not change. These changes have been reflected in the relevant concept plans (refer to Appendix **B** and **G**).

4. Open Space

Public Open Space

The quantity of public open space has been reduced as a result of the larger footprint associated with the proposed Community Facility. The approved and proposed concept plan extracts below clearly itemise the location of the reduction.

The public open space in this particular location was not the best example of open space relative to the remainder of the precinct. This is because it was relatively narrow and located between two (2) buildings which were one (1) and four (4) storeys in height. In this regard, it is not considered a loss of valuable open space.



Figure 6: Proposed open space plan (left) and previously approved open space plan (right) demonstrating reduction in public open space as a result of larger Community Facility footprint. (source: Robertson + Marks)

In addition to the above, the loss of publicly open space in this particular location is arguably offset by an increase in communal open space within the central courtyard of Stage 2 and 3. That is, as part of the rationalisation proposed within this courtyard, several private court yards had been deleted (which wouldn't affect their compliance with private open space requirements). As a result, communal open space within Stages 2 and 3 has increased by 169m² as indicated in the proposed amended 'Open Space Area Plan'.

Communal Open Space

The communal open space increase occurs within the Stage 2 and 3 central court yard as described above.

5. Public Benefits

The public benefits proposed as part of Stage 2/3 and 8/9 remain as originally proposed. These benefits included dedicating, by way of a Voluntary Planning Agreement (VPA), affordable housing to Ryde Council. The preliminary VPA offer submitted as part of the original application is provided again at **Appendix H**.

6. Owners' Consent

The strata plan for Stage 1 of the Concept Approval MP09_216 (MOD 1) was registered on 1 September 2015. The ownership of the 248 apartments was transferred to private entities shortly thereafter.

The proponent sought legal advice in relation to owner's consent and lodging modification applications pursuant to the Part 3A Transitional arrangements of the Environmental Planning & Assessment Act, 1979 (as amended). Such advice is provided at **Appendix I**. In summary, the advice concludes that unlike Development Applications and/or Modification Applications submitted pursuant to Part 4 of the Environmental Planning & Assessment Act, 1979 (as amended), the Part 3A Transitional arrangements do not specifically request consent from individual owners.

7. Plans and Documentation

Stage 2/3 Elevational Drawings and Orange Highlighting

We wish to confirm that elevational drawings DA-210-002 - 006 are the proposed indicative drawings for Stages 2/3. We also wish to clarify that the orange highlighted area refers to either additional storeys, amendments to previously approved dwellings, or additional dwellings. It is important to clarify that whilst some of the orange highlighted area refers to additional storeys, the modified building envelope remains within the existing approved height envelope, with the exception of 300mm as discussed in item 2 above.

Landscape Sections

The additional landscape sections requested at item 20 are provided at **Appendix J**.

Community Centre and Additional Dwellings Imagery

Turner Architects have provided both perspective and plan drawings indicating the additional net 17 dwellings agreed with Ryde Council to be provided in Stage 2/3 to replace the proposed Community Facility and to compensate for the increased cost of its relocation to Stage 8/9. in the existing location of the Community Facility (refer to **Appendix K**). Please be advised that the existing Community Facility was over two (2) floor levels and therefore, all seventeen (17) additional dwellings will not be demonstrated in one single plan.

Reference to Steeply Sloping Land

As sought by item 23, Robertson + Marks have amended plan number S001/c such that the reference to 'steeply sloping land' has been deleted (refer to **Appendix L**). Please note, as the plan has been updated, it is now referred to as S001/D.

Staging Plan References

Staging references have been updated for consistency across all the concept plans. Reference can be made to the updated concept plans at **Appendix B** in this regard.

Reference to 3x

As sought by item 25, Robertson + Marks have amended Figure 19 Rev 5 such that the references to 'Stage 3x' are now replaced with 'Stage 3' (refer to **Appendix B**).

Statement of Commitments

This modification application, in respect of Stage 2/3 and 8/9, does not seek to amend the previously approved Statement of Commitments. The previously mentioned Deed of Agreement sufficiently addresses the commitment to relocate the Community Facility, as well as the provision of affordable, key worker housing.

8. Public Authority Submissions

As part of the public notification process, submissions were received from several public authorities. Each of the submissions is addressed below:

Heritage Council of New South Wales

This submission did not raise any objection to the proposal.

Sydney Water

The submission from Sydney Water did not raise any objection to the proposal, on the basis that typical water and wastewater infrastructure is amplified accordingly.

Transport for NSW

The submission from Transport for NSW (TfNSW) does not raise a specific objection to the proposed modification. Rather, the submission provides several recommendations. These recommendations relate only to the Stage A component of the proposal, which are addressed in separate correspondence. Therefore, it is concluded that TfNSW does not raise any objections or provide any recommendations in relation to Stage 2/3 or 8/9.

NSW Roads & Maritime Service

The submission from NSW Roads & Maritime Service (RMS) dated 17 March 2016 raises concern in relation to vehicular access to Stage A. As stated earlier, Stage A is addressed via separate correspondence.

The RMS submission also refers to a previous submission from RMS, dated 15 March 2012. This submission was provided to DPE as part of their assessment of the **original** Concept Plan application. Given the concept plan has been approved, the issues raised in the 15 March 2012 submission become redundant. However, it is understood most of the matters raised in this submissions had been addressed as part of the modified Concept Plan.

Ryde Council

Ryde Council has provided a submission which raises various matters in relation to the Stage A component of the proposal. Stage A is addressed in separate correspondence, including the matters raised by Council.

9. Submissions from Private Residents or Organisations

Our analysis of each of submissions received by DPE from private stakeholders or organisations suggests it is difficult to allocate the submissions to either component of the application (i.e. either stage 2/3, 8/9 or A). This is because many of the submissions are vague in terms of which stage they are referring to. Further, it is noted that many submissions are not strictly objections, but rather seek clarification in relation to what is being proposed, as well as what community benefits may be provided. Nevertheless, it is evident that many submissions refer specifically to Stage A. In this regard, it can be concluded that the vast majority of private stakeholders do not object to the proposed modifications to Stage 2/3 and 8/9.

This aside, below we itemise the issues raised in those submissions which specifically relate to the Stage 2/3 and 8/9. As noted above, the following does not purport to address all the

submissions relating to Stage 2/3 and/or 8/9, only those which clearly reference these stages in their submissions.

View loss from proposed Community Facility

Stakeholders raise concern in relation to potential view loss as a result of the amended Stage 9 building envelope (i.e. the proposed Community Facility building). As noted earlier in this submission, an analysis of this potential view loss was undertaken by Richard Lamb & Associates. The results of their assessment is provided at **Appendix F**. With respect to the locations analysed as part of that assessment, the view loss was not considered to be unreasonable, subject to specific building envelope amendments, which have been adopted.

Further, it is noted that a four (4) storey RFB is currently under construction immediately to the east of the proposed Community Facility. This building occupies much of the visual landscape which the proposed Community Facility would occupy.

Stage 2/3 would become too bulky

As stated within the Environmental Assessment accompanying the modification application, the proposed amendments to Stage 2/3 remain within the previously approved maximum height envelope, with the exception of a small area on the western elevation of Stage 2 which breaches the existing approved height by 300mm. This correspondence provides that any such increase at the top of the building envelope does not affect perceived building bulk or scale, and would render the proposal consistent with the concept approval (as modified).

Similarly, the proposed storeys towards the bottom of the Stage 2 building envelope does not constitute new or additional building envelope. Rather, the storeys are a result of converting previous void spaces into habitable rooms. Given such storeys are accompanied by a terraced, landscaped communal space, it's unlikely their bulk would be tangibly visible from any public space.

The additional dwellings proposed within Stage 2/3 have been agreed to by Ryde Council as part of a Deed of Agreement with Holdmark. This correspondence provides that the Stage 2/3 amendments do not exceed the building bulk expectations which would have been envisaged as part of the deed.

Proposed location of community facility means it's no longer centralised, decreasing its value to the community. The centre of the precinct would become deactivated.

Whilst the Community Facility's location would no longer be centralised, this does not necessarily decrease its value or usability by the community. The proposed location is likely to increase the facility's accessibility by the general public, which arguably increases its usability. For example, the facility in the proposed location will have access to dedicated car parking not otherwise provided in the originally approved location. Further, the proposed Community Facility has been specifically designed, including internal fitout, for its proposed community oriented use, whilst the previous location was simply a space. Finally, the proposed location is likely to minimise conflict with residential uses given the previously approved location was 'nestled' amongst numerous apartments.

A café with courtyard facility remains within the Stage 3 envelope (south elevation). The café is located immediately adjacent an approximate 3000m² public open space area designed to accommodate a variety of active and passive recreation activities. Irrespective of the Community Facility's location, it is expected that this open space area will continue to accommodate and/or generate much of the precinct's passive recreational activity, or at least

the passive recreational activities associated with residents from Stage 2 and 3. In this regard, this correspondence provides that any deactivation associated with the proposed relocation of the community facility, is not likely to unreasonably affect the atmosphere surrounding the core of Stage 2/3.

Further, the Community Facility's proposed location is in accordance with the previously mentioned deed.

Reduced community facility area would not support sufficient community related activities

The location, size and finish of the proposed Community Facility is that requested by Council as to its specific need and reflects the deed of agreement between Ryde Council and Holdmark. This aside, this correspondence provides that a 500m² community facility hall is reasonable and should be able to accommodate most typical community related activities. It should also be noted that in addition to the 500m² space, bathrooms, off-street parking facilities and the like are also being provided by Holdmark for the exclusive use of the proposed Community Facility's occupants, taking the total area of the Community Facility to in excess of 1,500m² (including onsite parking) - significantly more than the 1,000m² required by the Concept Plan. These were not previously provided or available.

Relocation of community facility will delay its construction

The proponent has not finalised a specific date for the construction of Stage 9, which would include the proposed Community Facility. Therefore, at this stage, there is no indication from the proponent that the facility's construction would be delayed as a result of the proposed relocation.

Irrespective of the above, it is noted that the proponent has recently received Development Consent for the construction of Stage 9. We are also aware that the proponent is currently in the process of seeking the related Construction Certificate. It is therefore reasonable to suggest that Stage 9, inclusive of the proposed Community Facility, could be constructed relatively soon.

What are the public benefits arising from additional dwellings in Stage 2/3?

As noted in the original modification application submission, the proponent has offered to enter into a Voluntary Planning Agreement (VPA) with Ryde Council. The public benefits arising from the VPA specifically relate to some of the additional dwellings proposed within Stage 2/3 as part of this application. Specifically, the VPA offers 8% of 14 of the proposed additional dwellings for use by Ryde Council as affordable housing - this is twice the quantity required by Council's Affordable Housing Policy 2016 - 2031.

In addition to the abovementioned public benefits specifically related to Stage 2/3, it should be noted that the proponent has and will continue to discuss achieving public benefits with community stakeholders. For example, as part of developing the estate, the proponent is required to construct a range of footpaths, cycle ways, infrastructure, as well as dedicate 3000m² of land to Ryde Council for use as a public park.

Traffic and parking impacts

The application seeks an additional forty-one (41) dwellings within Stage 2. As noted in the Traffic Impact Assessment included at **Appendix A**, the actual traffic generation from these additional units is minimal and would not generate substantial traffic impacts. The concept approval, as modified, allowed for a maximum of 2,976 car space across the entire concept

plan. The modification to Stage 2/3 and 8/9 would provide for an additional 57 car spaces, which would equate to a total of 2,878 car spaces across the entire concept plan. Given the proposed number of car spaces remains less than the current car parking cap, it should be concluded that traffic and parking related impacts are acceptable.

The proposed additional dwellings will be supported by an additional thirty-three (33) additional onsite parking spaces for residents and visitors. As noted in the parking assessment originally submitted with the modification application, the development as a whole remains compliant with the onsite parking provisions prescribed by Ryde Council's Development Control Plan 2014.

Westerly view impacts from stage 1 as a result of stage 2 additional storey

DPE received a submission from a private strata owner within Stage 1. The submission raised the prospect of view loss from their strata unit within Stage 1 as a result of the proposed additional storey within Stage 2.

As noted earlier, Stage 2 will remain below the previously approved maximum building height, as prescribed by MP09_216 (MOD 1), except for a 300mm height increase on the western elevation. Relative to the separation between Stage 1 and Stage 2, 300mm will not result in any material impact on views.

10. Conclusion

This correspondence responds to those Stage 2/3 and 8/9 matters raised by DPE in its correspondence dated 21 March 2016. As stated earlier, the proponent does not seek to separate the proposed Stage A component from the current modification application. However, for clarity, separate correspondence will be provided addressing those matters DPE has raised in relation to Stage A.

In responding to the Stage 2/3 and 8/9 matters raised by DPE, this correspondence references an updated traffic impact assessment, updated concept master plans by Robertson + Marks, as well as an additional view impact analysis. The public submissions received by DPE during the application's notification period were also considered.

In considering the matters raised by DPE and members of the public, this correspondence concludes that the Stage 2/3 and 8/9 component of the proposal is acceptable. Specifically, we are of the opinion the proposal's environmental impacts are reasonable, particularly in light of specific design amendments as recommended by relevant specialists.

Further, this correspondence provides that the proposal remains consistent with the development as provided for in the original concept approval, as modified.

Yours Sincerely,



Sue Francis
Executive Director