

14 May 2018

Our Ref: P-17253

Mr Ben Lusher NSW Department of Planning & Environment GPO Box 39, SYDNEY NSW 2001

Dear Ben,

RE: MP 09\_0216 (MOD 3) | SHEPHERDS BAY CONCEPT PLAN | PREFERRED PROJECT

City Plan Strategy & Development P/L (CPSD) acts on behalf of the proponent for the abovementioned application. Following consideration of the submissions received in respect of the public notification process, and NSW Department of Planning & Environment's (DPE) correspondence dated 19 March 2018, the proponent, on advice, wishes to amend the proposed modification. The amendments are consistent with recent discussions between Sue Francis and yourself, and as detailed below.

# Retention of approved Stage A Envelope

The Stage A building envelope will not be changed and will adopt the already approved envelope established by the Planning Assessment Commission (PAC) in Mod 2. Specifically, the 15-storey height that formed part of the submitted Mod 3 application has been reduced to 10 storeys, or RL 57.70 (as allowed by Mod 2). All other elements as provided for Stage A by Mod 2 will also be retained, such as the publicly accessible, open form plaza.

## Other components of submitted Mod 3 which remain

The submitted Mod 3 application sought to modify Concept Approval MP09\_216 (Mod 2) to include serviced apartments as an additional permitted land use for the Stage A site only. This continues to form part of the preferred project.

## Additional amendments to Mod 3 since submission

In retaining the Mod 2 PAC approved envelope, further detailed analysis was required to establish the gross floor area (GFA) within the Mod 2 envelope. In particular, the analysis sought to confirm how much of the PAC approved envelope could be occupied by the remaining dwellings under the dwelling cap (i.e. 42 dwellings remain of the 2,033-dwelling cap).

In summary, the PAC approved envelope already provided for by Mod 2 equates to a total GFA of 13,035m2. Forty-two (42) dwellings, in a combination of 1, 2 and 3 bedrooms, and of sizes as recommended by the Apartment Design Guide (ADG), equates to a GFA of 4,270m2 approximately. In addition, the anticipated uses for Stage A include approximately 4,156m2 of commercial/retail spaces inclusive of a full line basement supermarket tenancy, speciality retail tenancies on the ground floor, as well as some commercial suites on the mezzanine level.

This configuration of commercial/retail and dwellings equates to a total GFA of approximately 8,426m2. As the currently approved Stage A envelope allows approximately 13,035m2, there is a 'vacant' space of approximately 4,609m2. It is this space that is proposed to be occupied by serviced apartments with associated serviced offices, and which necessitates modifying the description of the Concept Approval such that it references serviced apartments as a permitted land use.

Serviced apartments are defined in the Standard Instrument as "...a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents". They are a subset of 'tourist and visitor accommodation', whilst they are commercial in nature.

In this respect, it should be noted that 6,677m2 of commercial floor space has either already been approved by Ryde Council or is expected to be approved throughout the Concept Approval precinct area either via Mod 3 or other pending Development Applications. The breakdown of the 6,677m2 is shown in the table on the following page. However, as Condition A5 in Schedule 2 of Part A of the Concept Approval (Mod 2) prescribes a maximum 10,000m2 commercial floor space cap for the precinct, the cap would be exceeded by approximately 1,300m2 (total of 11,300m2) to accommodate the proposed serviced apartments land use for Stage A and to fill the PAC approved envelope, assuming for the purposes of definition, Serviced Apartments are the commercial use intended by Condition A5. This arrangement is also described in the following table:

DESCRIPTION	GFA (m2)
Commercial GFA already approved	1,878
Commercial GFA under assessment (excl as proposed for Stage A in Mod 3)	643
Retail/Commercial/Serviced Apartments proposed for Stage A (Mod 3):	
- At or below ground	4,156
- Level 1 and above	4,609
TOTAL APPROVED OR UNDER ASSESSMENT	11,286 (say 11,300)
MINUS	
Current cap as per Condition A5 of Concept Approval (Mod 2)	10,000
ADDITIONAL GFA REQUESTED	1,300

For the purposes of this application only, the proponent is willing to accept that Serviced Apartments are a 'commercial use' pursuant to Condition A5 of the Concept Approval and is thus willing to absorb this use in the 10,000m2 cap, subject to an additional 1,300m2 to 'fill' the approved envelope.

In this case, the preferred project seeks to modify Condition A5(1) from 10,000m2 to 11,300m2.

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### **Building Envelope**

The scheme presented by Cox Richardson/Kennedy Associates includes a maximum of ten (10) storeys for the eastern envelope, above which there is plant and services. The northern envelope includes a maximum of seven (7) storeys, above which there is communal outdoor facilities such as a pergola and BBQ area. Importantly, all envelopes, inclusive of any roof top communal recreational facilities or plant rooms are below the maximum RLs prescribed by Mod 2.

The area towards the northern perimetre of the basement will be up to 1.4m above ground level. We acknowledge this does not strictly comply with Future Environmental Assessment Requirement 4 of the Concept Approval (Mod 2). This is effectively a technical item which can be reconsidered at any DA stage.

For DPE's information purposes, the height of the basement is a specific response to the site's gradient, future use as a semi-public space, and provision of vehicle access in the safest location. That is, the site slopes 'away' to the south considerably, and this is somewhat inconsistent with the expected usage of the publicly accessible square. In order to comply with the control, a further 'step' would be required throughout the square, noting that there is already one 'step'. An additional 'step' decreases the accessibility and therefore the functionality of the square.

In addition, the vehicular entry to the basement is best suited to its currently proposed location, being towards the intersection of Parsonage Street and The Loop Road. However, as this is one of the lowest sections of the site, the basement requires elevation to provide sufficient clearance for vehicular access.

Whilst the basement/square would be non-compliant with Requirement 4, it is a better environmental outcome than a compliant basement for the reasons stated above. As such, if strict non-compliance cannot be achieved at DA stage, we would seek to proceed with the current non-compliant arrangement. In addition, it should be noted that the non-compliant basement and square arrangement had been endorsed by the DIP.

### **Statement of Commitments**

Mod 3 does not seek a modification to the existing statement of commitments.

## **Updated Table of Statutory Approvals**

Table 1 of the EA has been updated as requested (see following page), and now includes the amount of commercial, retail or community uses GFA already allowed for by relevant Development Consents, pending applications, or other instruments of approval.

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Approval	Date of Approval	Stage	Approved No. of Car Spaces	Approved No. of Dwellings	Approved Commercial GFA (M2)
MP09_0219 (as modified)	6 March 2013 and modified on 16 October 2014	1	342	246	0
DC 2015/0018	20 October 2015	2 & 3	605	453	820
DC 2015/0019	18 September 2015	4 & 5	647	511	0
DC 2015/0032	15 December 2015	6 & 7	422	311	0
DC 2015/0031	15 December 2015	8 & 9	573	422	225
MP09_0216 (MOD 2)	16 January 2017	A and 2 & 3	Nil	28 additional dwellings allowed (dwelling cap increased to 2033)	0
MOD 2017/0080	27 July 2017	2 & 3	33	45	833
MOD 2018/0012	15 March 2018	8 & 9	Nil	1 additional dwelling	0
TOTAL APPROVED		2,622	1,989	1,878	
MOD 2015/0032	Under Assessment	6 & 7	Nil	2 additional dwellings	0
Pending (Childcare centre - DA 2018/0168)	Lodged 3rd May 2018	2 & 3	1	Nil	643
Pending (as part of Mod 3), being floor space for Stage A.	Under Assessment	A	296	42	4156
TOTAL INCLUDING PENDING APPROVALS			2,919	2,033	6,677

#### **Detailed Schedule of Accommodation**

A schedule of the anticipated accommodation for the purposes of the forty-two (42) dwellings, the serviced apartments, and the commercial/retail floor space is provided at page 15 of the architectural plans accompanying this correspondence, prepared by Cox Richardson/Kennedy Associates.

This is an indicative schedule, subject to further design development, but demonstrates how the remaining forty-two (42) dwellings can be accommodated within the approved envelope together with a reasonable amount of retail, commercial and serviced apartment related floor space.

# **Updated Indicative Image**

The amended package prepared by Cox Richardson/Kennedy Associates includes perspective images reflecting the reduced, 10 storey scheme. An example is provided on the following page.

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Figure 1: Perspective image of Preferred Project, being the 10-storey scheme (Source: Cox Richardson/Kennedy Associates)

## **Updated Indicative Overshadowing Plan**

It is assumed DPE's request for an overshadowing comparison plan (i.e. 10 storeys v 15 storeys) is no longer necessary as Mod 3 strictly adopts the Stage A building envelope as already allowed by Mod 2.

## Clearer Tree Removal/Retention Plan

The Arboricultural Impact Assessment originally submitted as part of Mod 3, prepared by Redgum Horticultural, has been amended. Specifically, the tree removal plan included at page 15 has been revised to be clearer as sought by DPE.

#### **Design Excellence**

As DPE would be aware, Mod 3 included endorsement from the Design Integrity Panel (DIP). We are currently liaising with the DIP to seek their endorsement of the modified scheme (i.e. the 10-storey scheme). Due to the limited availability of some DIP members, however, we have not yet secured their endorsement.

As the 10-storey scheme is entirely consistent with the Mod 2 PAC approved envelope, their endorsement is not strictly required. Further, the relevant Design Excellence condition in the Concept Approval (Mod 2) requires Design Excellence to be determined as part of a Development Application, not as part of a S75W modification application.

To confirm the proponent's commitment to Design Excellence and Stage A generally, the DIP's endorsement will nevertheless be sought. We expect this to be available within 14 days of the date of this correspondence. The proponent appreciates and accepts DPE's recent offer to liaise with representatives from the NSW Government Architect's Office (GAO) for the purpose of achieving DIP endorsement.

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### **Traffic Impacts**

It is worth noting that as the preferred project simply adopts the already PAC approved Mod 2 Stage A envelope, traffic impacts are reduced, compared to the originally proposed Mod 3 15-storey scheme. This is confirmed in the revised Traffic Impact Assessment, prepared by Road Delay Solution, attached to this correspondence.

#### Conclusion

The preferred project now adopts the Stage A PAC approved Mod 2 envelope. That is, its height is 10 storeys, or RL 57.70. 15 storeys is no longer proposed taking into account the public submissions as well as feedback from DPE. The Mod 2 site layout is also retained. As the proposal adopts the Mod 2 PAC approved envelope, built form related environmental impacts are acceptable.

The inclusion of serviced apartments as an additional land use remains part of the preferred project. It is a logical land use given the high degree of amenity in the immediate vicinity of Stage A, and the site's proximity to related land uses such as commercial premises' in Macquarie Park.

Including serviced apartments as an additional land use for Stage A will occupy what is effectively vacant space in the Mod 2 PAC approved Stage A envelope. As detailed earlier, this is largely because the PAC approved Stage A envelope will not be occupied entirely by the remaining forty-two (42) dwellings of the 2 ,033 dwelling cap, and commercial/retail floor space in additional to what is already proposed in Stage A is not a viable use.

In order to accommodate the serviced apartments as proposed, and due to already or pending approvals within the Concept Approval precinct area which include commercial floor space, the existing commercial floor space cap prescribed by Condition A5(1) in Schedule 2 of the Concept Approval, needs to be increased by 1,300m2 (i.e. from 10,000m2 to 11,300m2). Whilst the commercial floor space would be increased, it does not represent a significant further intensification of the Stage A site itself, or the precinct generally. This is because the additional permitted land use simply occupies the building envelope already provided for by the Mod 2 PAC approved Stage A envelope. Further, the intensity of use from serviced apartments is notably less than either residential or retail uses in respect of traffic generation.

The preferred project necessitates amendments to the project description of MP09\_216 (Mod 2), the drawing reference in Condition A2 of Schedule 2, and Condition A5(1) of Schedule 2. These amendments are demonstrated below (amendments are shown bold).

## Recommended Project Description

Project:	Mixed use residential, retail, commercial and serviced apartments development incorporating:
	<ul> <li>building envelopes for 12 buildings incorporating basement level parking;</li> </ul>
	<ul> <li>infrastructure works to support the development;</li> </ul>
	<ul> <li>publically accessible open space and through site links; and</li> </ul>
	pedestrian and cycle pathways

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Recommended Drawing Reference for Condition A2, Schedule 2, Part A

Note 1 - this effectively adopts the drawing reference numbers currently referred to in Mod 2, as superseded by DPE's correspondence dated 9 May 2017.

Note 2 - The proposed amendments relate to drawings referenced only in the table below. All other drawings remain unchanged.

Drawing No.	Name of Plan	Date
PPR 001-I	Maximum Height with Setbacks	07/02/17
PPR 002- <b>G</b>	Maximum Number of Storeys Above Ground Level (Finished) Plan	07/02/17
Figure 18 REV 12	Stage A. Building Envelope Control Diagrams	23/02/17

# Recommended Condition A5, Schedule 2, Part A

Maximum Gross Floor Area (GFA)	The maximum GFA for commercial, retail, community or serviced apartment uses shall not exceed 11,300m2
	2. The maximum number of dwellings shall not exceed 2,033

The preferred project also seeks to retain the deletion of Condition B1b in Schedule 2, Part B of MP09\_216 (Mod 2), as was proposed in the Environmental Assessment which accompanied the Mod 3 application.

In light of the above, we provide that the preferred project is worthy of support by DPE.

Yours Sincerely,

Susan E Francis
Executive Director

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# Attachments:

- Preferred Project design by Cox Richardson/Kennedy Associates.
- Amended Arboricultural Assessment by Redgum Horticultural.
- Amended Traffic Impact Assessment by Road Delay Solutions.

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