|  |  |
| --- | --- |
| \\VFILERDPI\DPI-Home\OBRIENR2\My Documents\Downloads\PP logo.jpg |  |
| **COUNCIL ASSESSMENT REPORT**  SYDNEY CENTRAL CITY PLANNING PANEL | |

|  |  |
| --- | --- |
| PANEL REFERENCE & DA NUMBER | PPSSEC-283 / MOD2023/0082 |
| PROPOSAL | Modification to approved DA2019/0160 to construct 3 additional; private roof terrasses and to modify Penthouse apartments below for roof access |
| ADDRESS | 2, 2A & 4 Rothwell Avenue, Concord West  2 Rothwell Avenue, Concord West – Lot 1, DP 215341  2A Rothwell Avenue, Concord West – Lot 2, DP 215341  4 Rothwell Avenue, Concord West – Lot X, DP 404807 |
| APPLICANT | Applicant – Anthony Habkouk (Eloura Holdings) |
| OWNER | Owner – Powells Creek Developments Pty Ltd |
| DA LODGEMENT DATE | 5 July 2023 |
| APPLICATION TYPE | S.4.55(2) Modification Application |
| REGIONALLY SIGNIFICANT CRITERIA | Section 2.19(1) and Clause 4 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as: Capital Investment Value in excess of $5,000,000.00.  DA2019/0160 was determined by the Sydney Central City Planning Panel on 3 December 2020. The proposed modification to the approved development includes a variation to the building heigh development standard of more than 10% and therefore is required to be referred and determined by the Regional Planning Panel. |
| CIV | $37,203,295.73 (including GST) |
| CLAUSE 4.6 REQUESTS | The approved development exceeds the maximum building height under Clause 4.3 of the CB LEP 2013 and was approved subject to a Clause 4.6 request.  Under the current modification application, further increase to the building height is proposed. Variation to a development standard under a modification application is not subject to a Clause 4.6 request. |
| KEY SEPP/LEP | State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development  State Environmental Planning Policy (Planning Systems) 2021  Canada Bay Local Environmental Plan 2013; and  Canada Bay Development Control Plan |
| TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS | Three (3) |
| DOCUMENTS SUBMITTED FOR CONSIDERATION | Architectural Plans by Team2  Statement of Environmental Effect by ABC Planning  Acoustic Report |
| RECOMMENDATION | Approval |
| DRAFT REPORT / CONDITIONS TO APPLICANT | 18 March 2024 |
| SCHEDULED MEETING DATE | 2 April 2024 |
| PLAN VERSION | Various – as uploaded to the portal on 7 March 2024 |
| PREPARED BY | Edna Sorensen |
| DATE OF REPORT | 18 March 2024 |

**EXECUTIVE SUMMARY**

On 3 December 2020, the Regional Planning Panel approved DA2029/0160 for *Demolition of existing structures and construction of residential flat building* on land at 2, 2 A and 4 Rothwell Avenue Concord West subject inter alia to the following conditions:

The consent has been activated, noting that the demolition of structures on the site has been demolished, and excavation has commenced. There have also been several modifications since the original approval.

The applicant is now seeking to modify the approved development by proposing three new roof top terraces and internal modification to the three associated apartments below to provide new stairs to access the terraces.

The modification application was publicly notified from 10 July 2023 to 31 July 2023 resulting in three submissions being received by Council.

The proposed changes are minor in the scheme of the overall development and the modified development will remain substantially the same development as approved. There is no change to the approved building footprint or setbacks, and apart from the proposed three new covered roof top terraces, there is no other increase to the approved four storey building envelope. The internal modifications are primarily limited to internal stair access from the upper level of three units to the new rooftop private open space areas. The proposed modification is therefore suitable to be considered and determined under Section 4.55 of the Environmental Planning and Assessment Act.

On 20 September 2023 the proposal (as originally submitted under this mod application) was reviewed by the Canada Bay Design Review Panel who raised issues in terms of bulk and scale, excessive size of the terraces, impact on street and park views and design.

On 13 December 2023 the applicant uploads amended Architectural Plans and associated Design Statement to the Planning Portal in response to the DRP comments. The amended scheme remained unsatisfactory and further modifications were required.

On 7 March 2024, further amended architectural plans and an acoustic statement were submitted to Council which satisfactorily satisfy the outstanding concerns. These plans from the basis of this assessment.

1. **THE SITE AND LOCALITY**
   1. **The Site**

The subject site is located in Concord West within the Concord West Masterplan area which is approximately 14.5km to the west of the Sydney CBD as the crow flies. The site is located approximately 320m southwest of Concord West Station.

The site is an amalgamation of the following:

* 2 Rothwell Avenue, Concord West – Lot 1, DP 215341
* A Rothwell Avenue, Concord West – Lot 2, DP 215341
* 4 Rothwell Avenue, Concord West – Lot X, DP 404807

The site has the following dimensions which results in a total site area of 6,080sqm:

* Northern boundary – 43.98m
* Eastern boundary, Rothwell Avenue frontage – 129.59m
* Southern boundary, Conway Avenue frontage – 43.78m
* Western boundary, Powells Creek Reserve – 170.44m

The site has a topography with a general fall of approximately 3m from the east down to the west and slight fall of approximately 0.5m from the north down to the south.

The original DA2019/0160 for the site has been activated noting the demolition of all structures; the site now being vacant.

****

***Figure 1:*** *Aerial image showing the location of the subject site outlined in red (Source: Council’s Intramaps)*

* 1. **The Locality**

Surrounding development is characterised as follows:

*Development to the north*

The adjoining sites to the north are zoned E4 General Industrial with buildings that reflect this zoning consisting of single and two storey industrial style buildings.

*Development to the east and south*

The development on the eastern side of Rothwell Avenue and southern side of Conway Avenue is zoned R2 Low Density Residential and consist of single and two storey detached dwelling houses with original features and landscape settings.

Development further to the east adjoining the Northern Railway Line consists of a residential flat building development of four storeys with basement parking and ground floor commercial tenancies.

*Development to the west*

The adjoining site is the west is Powells Creek Reserve which is an established landscape corridor that contains the Powells Creek Tennis Centre.

1. **THE PROPOSAL AND BACKGROUND** 
   1. **The Proposal**

The proposal seeks consent for modification under S4.55(2) of the Environmental Planning and Assessment Act 1979 to approved DA2029/0160 to construct three additional; private roof terrasses and to modify the associated three apartments below for roof access.

As per the applicant’s Statement of Environmental Effect and architectural plans, the specifics of the proposal involve:

*Level 4 - Block A*

Unit A403 - New stairs to access the roof terrace and glass wall to allow light to enter from the roof terrace to the living rooms.

*Level 4 - Block B*

Units B403 and BB403 - New stairs to access the roof terrace and glass wall to allow light to enter from the roof terrace to the living rooms.

*Roof Terrace – Block A*

New terrace to be utilised as a private open space by Unit A403. Private open space includes stair access, a lobby, a bathroom, a kitchenette, lounge and dining areas and planter boxes.

Existing skylight to be removed.

*Roof Terrace – Block B*

Two new terraces to be utilised as private open space by Units B403 and BB403. Each terrace includes stair access, a lobby, a bathroom, a kitchenette, lounge and dining areas and planter boxes.

Existing skylight to be removed.

*Roof Plan*

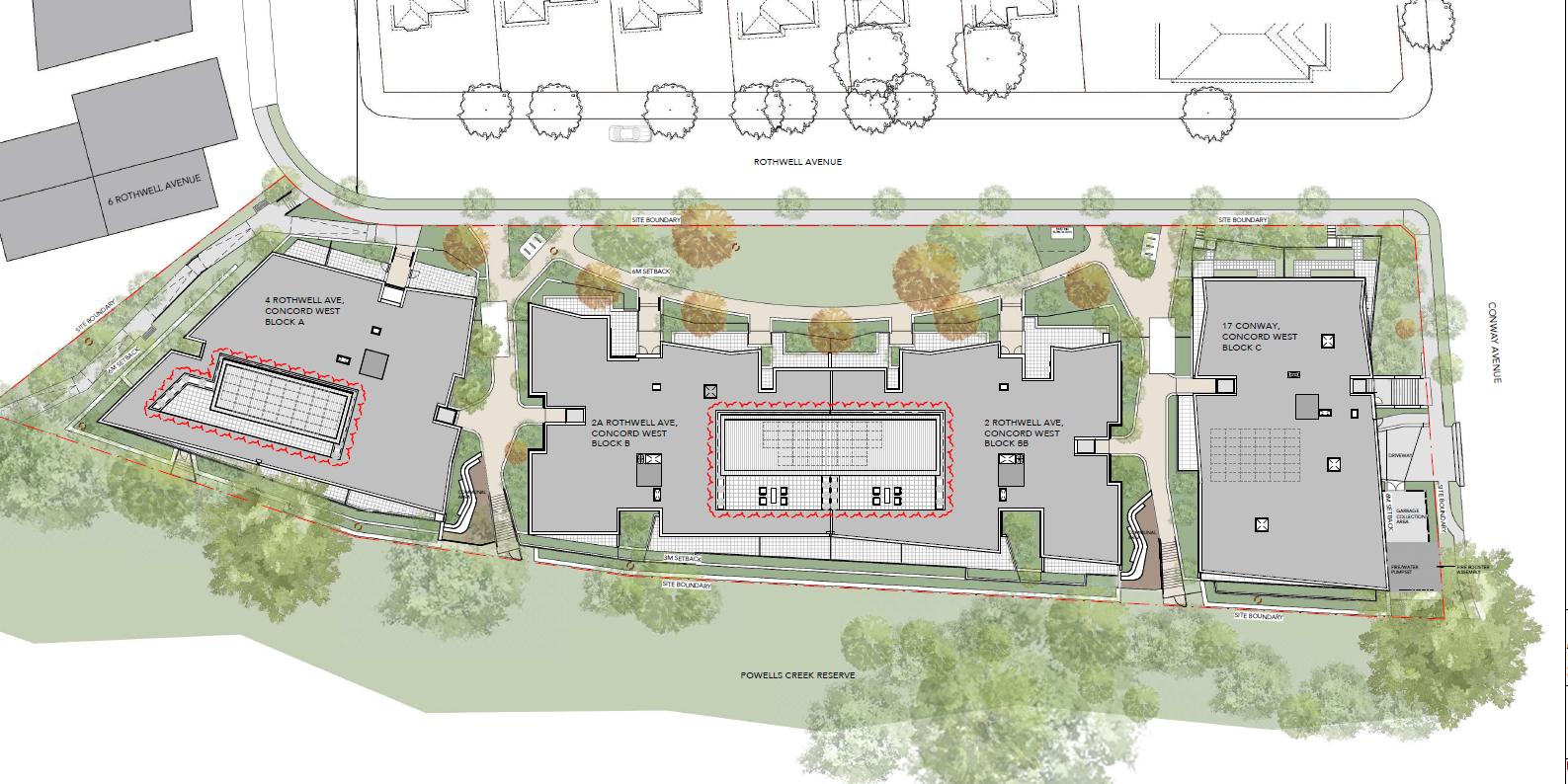
New metal roof (Block A and B)

New skylight (Block B)

Solar panels have been relocated to the top of the new roof.

**Table 1: Key Development Data**

|  |  |
| --- | --- |
| Control | Proposal |
| Site area | 6,080sqm |
| GFA | Approved – 8512.3sqm  Proposed – 8539.3sqm (additional 27sqm) |
| Max FSR for site  – 1.4:1 | Approved – 1.4:1  Proposed – The numeric FSR remains at 1.4:1, being a 0.32% increase. |
| Max Height for site –16m | Approved – 16.85m, variation of 5.3%  Proposed – 19.21m, variation of 20% |
| Clause 4.6 Requests | No – Clause 4.6 objection not required as part of a modification application |
| No of apartments | Approved – 88 units  No change proposed |
| Car Parking spaces | Approved – 91 on-site parking spaces  No change proposed |
| Building Setbacks | No change to approved building setbacks |

***Figure 2:*** *Excerpt of DA010 – site plan, which shows the proposed roof top terraces to the northern (Block A) and central (Block B) buildings.*

A blueprint of a building

Description automatically generated

***Figure 3:*** *Excerpt of DA-151- Roof Terrace Plan Block A, which shows the details of the proposed roof top terrace associated with Unit A403 including stair access, a lobby, a bathroom, a kitchenette, lounge and dining areas and planter boxes.*

A blueprint of a building

Description automatically generated

***Figure 4:*** *Excerpt of DA-152- Roof Terrace Plan Block B, which shows the details of the proposed amended roof top terraces associated with Units B403 and B403 including stair access, a lobby, a bathroom, a kitchenette, lounge and dining areas and planter boxes.*

* 1. **Background**

The modification application was lodged on **5 July 2023**. A chronology of the development application since lodgement is outlined in **Table 2**.

**Table 2: Chronology of the MOD to date of this Briefing Report**

|  |  |
| --- | --- |
| Date | Event |
| 10 July 2023 | The proposal was notified for three weeks starting from 10 July 2023 until 31 July 2023. The notification resulted in three submissions objecting to the proposal. |
| 31 August 2023 | Kick off briefing meeting |
| 20 September 2023 | Canada Bay Design Review Panel meeting |
| 24 October 2023 | Canada Bay Design Review Panel meeting comments provided to applicant |
| 13 December 2023 | Applicant uploads amended Architectural Plans and associated Design Statement to the Planning Portal in response to DRP comments |
| 29 February 2024 | Briefing Meeting |
| 7 March 2024 | Meeting between Council and Applicant to discuss further modifications to the roof top terraces |
| 7 March 2024 | Applicant uploads amended architectural plans the Planning Portal |
| 11 March 2024 | Applicant uploads Acoustic Statement to the Planning Portal |

* 1. **Site History**

The site is located within the Concord West Precinct Masterplan which was prepared in 2014 by JBA on behalf of the Council, which encompassed parcels of land on the western side of the Northern Railway Line at Concord West.

The conclusions of the Concord West Masterplan informed the preparation of a Planning Proposal for the subject site to amend the then zoning and maximum height and FSR controls as follows:

* Change the zoning of the site from IN1 General Industrial to R3 Medium Density Residential;
* Change the maximum height control from 9 metres to 16 metres; and
* Change the maximum FSR control from 1:1 to 1.4:1.

The amendments proposed to the CBLEP 2013 under the Planning Proposal for the site were gazetted on 20 April 2018. A draft proposal was considered at a pre-lodgement meeting held with Council's Design Review Panel (DRP) on 22 August 2018. The issues raised at this meeting were resolved through amendments to address issues of building siting and setbacks, through site link and solar penetration.

DA2019/0160 for “*Demolition of existing structures and construction of a residential flat building development”* to which the subject modification relates was lodged with Council on the 5th of June 2019 and determined for approval on the 3rd of December 2020 by the Sydney Eastern City Planning Panel.

Subsequent the original development consent, the following modification applications have been lodged with Council.

MOD2021/100 for Additional storey to Building A & B with 4 units (1 x 2 bed and 3 x 3 bed), extension to Basement Level 2 to provide four additional (4) car spaces, storage and services.

This mod application was withdrawn by the applicant as requested by Council as essentially, Council did not support the mod application because:

*“The redevelopment and planning for the site was facilitated by Council’s Concord West Precinct Master Plan and subsequently by the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS). These documents recommend a consistent approach to the redevelopment of the land. The subject site was rezoned through planning proposal that affectively brought forward the rezoning and uplift of these properties ahead of Council’s precinct wide planning proposal for the Homebush North precinct of the Parramatta Road corridor.*

*Importantly, the planning proposal for the Homebush North precinct, including the proposed building heights and floor space ratios, is consistent with the outcomes contemplated by PRCUTS (and Council’s Concord West precinct Master Plan).*

*As the land was only recently rezoned in accordance with local and state government strategies, it would not be in the public interest to vary development standards applying to the site. Such an outcome would undermine the comprehensive community engagement and planning undertaken to inform the planning framework that applies to the land.”*

MOD2022/46 Modification to building footprint, internal layout, landscaping and basement parking. Approved by Council on 20/06/2022.

MOD2022/134 Various minor modifications including solar panels, reconfiguration of basement, internal reconfiguration of apartments and amendments to landscaping on Level 1. Approved by Council on 18/11/2022.

MOD2022/172 Fire stair passageways to reduce travel distances with modification to adjoining units. Approved by Council on 27/01/2023.

1. **ASSESSMENT**

**3.1 Section 4.55(2) Other modifications of the Environmental Planning and Assessment Act allows the consent authority to modify a consent if:**

1. **It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all);**

The proposed modification to include three roof top terraces to Units A403, B403 and BB403 on the upper most level is minor in the scheme of the overall development as previously approved and will not alter the nature of the essence of the approved development.

The approved use of the site will remain unchanged, being a residential flat building and the number of units remains as approved, with only additional private open space for three units sought by the proposal.

The additional height proposed is a result of the proposed shade structure and the bathroom and stair access/lobby for each terrace. These structures make up a very small portion of the building footprint and will not be overly visible from the street due to their substantial street setbacks. Only a very minor increase in GFA is proposed, noting that FSR remains compliant.

The proposed modifications will have negligible streetscape or visual bulk impacts whilst having no adverse external amenity impacts on any surrounding properties and open space.

It is considered the proposed modifications will not result in the original development to not remain essentially the same.

1. **it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent**

N/A

1. **it has notified the application in accordance with—**

**(i) the regulations, if the regulations so require, or**

**(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent,**

1. **it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the Development Control Plan, as the case may be**

In accordance with Council’s Notification Development Control Plan, adjoining and nearby property owners and occupiers were advised of the proposed modification and were invited to make submission. The notification generated three submission objecting to the proposal.

**3.2 Assessment under section 4.15 of the Environmental Planning and Assessment Act 1979**

In determining an application for modification of consent, consideration of those matters referred to in section 4.15 (1) relevant to the development as modified.

Following is a discussion of those matters.

* + 1. **Environmental Planning Instruments Section [4.15(1) (A) (I & II)]**

The following Environmental Planning Instruments are relevant to this application:

[***State Environmental Planning Policy (Planning Systems) 2021***](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724) ***(‘*Planning Systems SEPP’)**

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 (‘the* Resilience and Hazards SEPP’) were considered in the assessment of the original development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Concerns regarding contamination and remediation was investigated and addressed as part of the original development application. The modifications are restricted to the upper level only. Therefore, no further investigations are warranted.

***State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development***

The original development was assessed against SEPP 65 and the Apartment Design Guidelines (ADG) and found to be acceptable in this regard. The proposed modifications will not result in any inconsistency with the original assessment and the approved development as modified will continue to provide good amenity to units and open space areas and positively respond to the streetscape with negligible impact on overshadowing and any views and vistas in the locality.

***Canada Bay Local Environmental Plan 2013***

The relevant local environmental plan applying to the site is the *Canada Bay Local Environmental Plan 2013* (‘the LEP’).

Part 1.2 of the LEP sets out the aims of this plan. Relevant to the development is 1.2(2)(c) *to achieve high quality urban form by ensuring that new development reflects the existing or desired future character of particular localities.*

The development as approved is consistent with this aim. The development as modified through this application will continue to achieve a high-quality built form that is consistent with the desired future character of the locality.

*Zoning and Permissibility (Part 2)*

The site is located within the Medium Density Residential R3 Zone pursuant to Clause 2.2 of the LEP which permits residential flat buildings.

The original development was assessed against the three zone objectives and considered to be consistent with the objectives as per the below.

1. *To provide for the housing needs of the community within a medium density residential environment*

The proposal will provide 88 additional apartments which is consistent with this medium density zoning objective.

1. *To provide a variety of housing types within a medium density residential environment*

The proposal includes a well-balanced mix of apartment sizes and configurations, which will activate the area and provide apartments for a variety of users from families to sole occupants.

1. *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development of this site for residential purposes will not preclude the neighbouring sites from providing facilities and services to meet the day to day needs of residents. The site is within close proximity to a variety of local facilities and services.

The modifications sought will not result in any inconsistency with the zone objectives as discussed above.

*General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 3** below. The proposal does not comply with the development standard in Part 4 of the LEP/Clause 4.3 Height of Buildings.

**Table 3: Consideration of the LEP Controls**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Control** | **Requirement** | **Approved** | **Proposal** | **Comply** |
| Height of buildings  (Cl 4.3(2)) | 16 metres | 16.85m  0.85m or 5.3% variation | 19.21  3.21m or 20% variation | No |
| FSR  (Cl 4.4(2)) | 1.4:1 | 1.4:1 (8512.3sqm) | 1.4:1  (8539.3sqm) 0.32% increase | Yes |

As per the above, Clause 4.3(2) of the Canada Bay LEP 2012 prescribes a maximum building height of 16m for the site. The original development was approved with a non-compliant building height of 16.85m. The proposal results in further building height non-compliance at 19.21m.

Clause 4.6 of the Canada Bay Local Environmental Plan 2013 (LEP) allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

The original development was approved subject to a well-founded Clause 4.6 objection.

A proposal under section 4.55 of the Act (modification application) that results in non-compliance with a development standard or results in further non-compliance to a standard to that originally considered and approved is not subject to a Clause 4.6 request.

Notwithstanding, the applicant has submitted an assessment against the objectives of the Height of Buildings development standard. Furthermore, the architectural plans the basis of this assessment has reduced the footprint of the proposed roof top terraces and increased the setbacks further away from the building edges to that originally proposed under this modification application. The proposal is now considered consistent with the objectives of the Height of Buildings development standard as discussed below.

Objectives of Height of Buildings Development Standard:

* *To ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively contribute to the streetscape and public spaces*

The roof top terraces are setback from the edges of buildings A and B and will appear recessed elements rather than read as a fifth level. This ensures that the original approved development's size and four storey scale is generally retained and will therefore not result in any inconsistency with the desired future character of the locality nor impact on the presentation and contribution to the streetscape and adjacent reserve/playing fields of the original development.

* *To protect the amenity of residential accommodation, neighbouring properties and public spaces in terms of—*
* *Visual and acoustic privacy, and*
* *Solar access and view sharing*

The proposed rooftop terraces will be located towards the rear of the buildings and will be well setback from the buildings’ edges. It is therefore anticipated that overlooking of surrounding development and acoustic impacts will not be a concern. Furthermore, acoustic treatments will be implemented to minimise noise transfer to the units below.

The increase in height will not result in any perceivable additional overshadowing impacts or obstruct any views and vistas in the locality.

* *To establish a transition in scale between medium and high-density centres and adjoining lower density and open space zones to protect local amenity*

As discussed above, the rooftop terraces will not be readily visible from the reserve/playing field to the rear nor from surrounding low-density residential properties. The additional height proposed will therefore not have an adverse impact on the transition in scale with adjoining lower density and open space zones.

* *To ensure that buildings respond to the natural topography of the area*

The proposal continues to respond to the area's natural topography and remains unchanged from the approval in this regard as the modifications are restricted to the upper-level units and roof top.

1. **Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments which have been the subject of public consultation under the EP&A Act and are relevant to the proposal.

1. **Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

* *Canada Bay Development Control Plan* (‘the DCP’)

The following three controls are relevant to the proposed modification.

**Table 4: Consideration of the DCP Controls**

|  |  |
| --- | --- |
| ***Control*** | ***Comment*** |
| **F3.3 Solar Access to neighbours** | |
| C1. Direct sunlight to all north facing windows of habitable room of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.  C3. Direct sunlight to 50% of the principal private open space should not be reduced to  3 hours between 9.00am and 3.00pm on 21 June. | As per the shadow diagrams submitted the shadow cast by the additional height will fall on the roof space of Buildings A and B and not impact on the north facing windows and/or private open space to adjoining dwellings. |
| **F3.8 Visual and acoustic privacy** |  |
| C12. No trafficable outdoor spaces are permitted on the uppermost rooftop of a building or on garage roofs, such as roof decks, patios, gardens and the like. | As discussed within this report, no adverse amenity or streetscape impacts are anticipated. |
| **F3.10 Access to views** |  |
| C1. Development should seek to protect water views, iconic views and whole views. | The proposed rooftop terraces will not impact on the attainment of views from any nearby low density residential development. Although the terraces will be visible from further afield, they will not contribute to any direct view loss impacts. |

* 1. **Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of the proposed development upon the surrounding area are discussed as follows:

Impact on the natural environment:

The proposed development will not have an adverse impact on the natural environment.

The site has previously been used for general industrial purposes however was rezoned in 2018 to R3 medium density zone.

Impact on the built environment:

The proposed modification has been assessed against the provisions contained in CBLEP 2013 and CBDCP.

Maximum LEP height for site is 16m with the originally approved DA having a non-compliant height of 16.85m which equates to a variation of 5.3%. The proposed additional height will result in a building height of19.21m, a variation of 20%. Despite the increase in the level of non-compliance with the Height of Buildings development standard, the development as modified under this application will remain consistent with the objectives. The overall scale, bulk and height of the development as well as the architectural design and appearance remain consistent with the original approved development application.

Further, the proposed development is not considered to result in any adverse or unreasonable amenity impacts i.e. overshadowing, privacy or views loss.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality in addition to those considered under the original development application (DA2019/0160)

* 1. **Section 4.15(1)(c) - Suitability of the site**

The proposed development has been assessed in relation to its environmental consequences and the relevant statutory and non-statutory standards Having regard to this assessment, it is considered that the land is suitable for the modified development.

* 1. **Section 4.15(1)(d) - Public Submissions**

Council received three submissions objecting to the proposal. These are discussed further below in Part 4.4.

* 1. **Section 4.15(1)(e) - Public interest**

The proposed development is consistent with the objects of the Environmental Planning and Assessment Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. As a result, the consent authority may be satisfied that the development subject to conditions is consistent with the public interest.

1. **REFERRALS AND SUBMISSIONS** 
   1. **Agency Referrals**

The modification application was reviewed by the Canada Bay Design Review Panel. The advice of the DRP has been considered by the applicant in their amended proposal.

* 1. **Council Officer Referrals**

The development application did not require any referrals within Council.

* 1. **Community Consultation**

The proposal was notified in accordance with the Council’s Community Participation Plan from 10 July 2023 until 31 July 2023

The Council received a total of three unique submissions, all objections with no submissions in favour of the proposal. The issues raised in these submissions are considered in **Table 5.**

**Table 5: Community Submissions**

|  |  |
| --- | --- |
| **Issue** | **Council Comments** |
| Additional height will create greater disparity between the development and surrounding low density residential developments. | The proposed terraces are set to the rear of Buildings A and B and orientated to Powells Creek Reserve and will not be readily visible from surrounding low-density residential properties. The additional height proposed will therefore not have an adverse impact on the transition in scale with adjoining lower density developments. |
| Loss of privacy to surrounding homes | The proposed terraces are set to the rear of Buildings A and B and orientated to Powells Creek Reserve. The location and ample setbacks from the buildings’ edges will prevent overlooking of surrounding residential homes and the perimeter planting around the reserve will obscure overlooking of park users. |
| Further obstruction of views to Sydney Olympic Park for many surrounding properties and fireworks from Bicentennial Park | The terraces are located to the rear of Buildings A and B and will be minimally visible, if at all, from surrounding homes and thus will have little impact on views to Syndey Olympic Park skyline and any fireworks. |
| Proposal profitable for developer and improves vista for the three penthouse apartments but detrimental impacts to the dwellings between Rothwell Avenue and George Street. | No additional units are proposed. The proposal relates to the construction of three new roof top terraces associated with three approved dwellings on level 4 of buildings A and B. They are set to the rear of the Buildings A and B and will have minimal impact on the outlook and views to the sky from nearby dwellings between Rothwell Avenue and George Street with no adverse impact in terms of visual or acoustic privacy. |
| Impact on Solar access - drying clothes and solar panels | The terraces are located to the rear of buildings A and B and set well away from nearby dwellings in Conway and Rothwell Avenues. As per the shadow diagrams submitted, the shadow cast by the additional height will fall on the roof space of Buildings A and B; thus, the shadow cast by the development as approved will be fully retained. |
| Additional impact on parking and traffic | The proposal relates to the construction of three new roof top terraces associated with three approved dwellings on level 4 of buildings A and B. No additional units are proposed and hence, there will be no additional traffic and parking impacts to those previously considered under the original development application. |

1. **KEY ISSUES**

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

* 1. **Acoustic Impacts**

Acoustic impacts to the units below were raised as a concern. The applicant has submitted a memorandum, dated 11 March 2024 to the acoustic report confirming that compliance with the acoustic separation requirements of the BCA can be achieved.

* 1. **Bulk and Scale and Design**

In response to the comments by the Canada Bay Design Review Panel, the applicant reduced and rationalised the roof top terraces, removed the plunge pools and high-level screening and extended the planter boxes for a neat perimeter to the terraces.

The design of the terraces has simplified and streamlined with the roofs straightened to create a more rectangular form with a floating plane aesthetic.

* 1. **View loss Impacts**

In order to properly assess the potential impact on views, the applicant submitted a broader context plan with additional viewpoints from the street and reserve demonstrating that the terraces will not be overly visible from surrounding residential developments or the park.

* 1. **Privacy Impact on Surrounding Development and Powells Creek Reserve**

The proposed terraces are set to the rear of Buildings A and B and orientated to Powells Creek Reserve. The location and ample setbacks from the buildings’ edges will prevent overlooking of surrounding residential homes and the perimeter planting around the reserve will obscure overlooking of park users.

1. **CONCLUSION**

The proposed modification to the development originally consented to is considered to have minimal environmental impact and is acceptable having regard to the provisions of Sections 4.15 and 4.55(2) of the Environmental Planning and Assessment Act 1979.

1. **RECOMMENDATION**

Pursuant to the provision of Section 4.55 of the Environmental Planning and Assessment Act 1979 (as amended)

THAT Sydney Central City Planning Panel, as the responsible authority, resolve to modify Development Consent No. 2019/0160 on land at 2 – 4 Rothwell Avenue CONCORD WEST only in so far as will provide for the deletion of condition numbered 1 on the notice of determination and the insertion in lieu thereof the following new condition.

1. **DAGCA01 - Approved Plans and Supporting Documents**

The development shall be carried out substantially in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Approved Plans*** | | | | |
| ***Reference/Dwg No*** | ***Title/Description*** | ***Prepared By*** | ***Date/s*** |
| DA-010, Rev. 9 | Site Plan | Team 2 Architects | 01.12.2022 |
| DA-100, Rev. 11 | Basement Plan | Team 2 Architects | 01.12.2022 |
| DA-110, Rev. 11 | Level 1 Floor Plan | Team 2 Architects | 01.12.2022 |
| DA-111, Rev. 11 | Level 1 Floor Plan Block A | Team 2 Architects | 01.12.2022 |
| DA-112, Rev. 10 | Level 1 Floor Plan Block B | Team 2 Architects | 09.11.2022 |
| DA-113, Rev. 12 | Level 1 Floor Plan Block C | Team 2 Architects | 01.12.2022 |
| DA-120, Rev. 11 | Typical Floor Plan (Level 2, 3 & 4) | Team 2 Architects | 01.12.2022 |
| DA-121, Rev. 9 | Typical Floor Plan Block A (level 2, 3 & 4) | Team 2 Architects | 01.12.2022 |
| DA-122, Rev. 9 | Typical Floor Plan Block B (level 2, 3 & 4) | Team 2 Architects | 09.11.2022 |
| DA-123, Rev. 10 | Typical Floor Plan Block C (level 2, 3 & 4) | Team 2 Architects | 01.12.2022 |
| DA-150, Rev. 9 | Roof Plan | Team 2 Architects | 09.11.2022 |
| DA-160, Rev. 8 | Typical Adaptable Apartment Plans | Team 2 Architects | 29.09.2022 |
| DA-161, Rev. 8 | Typical Adaptable Apartment Plans | Team 2 Architects | 29.09.2022 |
| DA-200, Rev. 11 | Elevations | Team 2 Architects | 01.12.2022 |
| DA-201, Rev. 8 | Elevations - Block A | Team 2 Architects | 29.09.2022 |
| DA-202, Rev. 8 | Elevations - Block A | Team 2 Architects | 29.09.2022 |
| DA-203, Rev. 8 | Elevations - Block B | Team 2 Architects | 29.09.2022 |
| DA-204, Rev. 9 | Elevations - Block B | Team 2 Architects | 29.09.2022 |
| DA-205, Rev. 11 | Elevations - Block C | Team 2 Architects | 01.12.2022 |
| DA-300, Rev. 7 | Sections | Team 2 Architects | 29.09.2022 |
| DA-301, Rev. 5 | Sections | Team 2 Architects | 01.04.2022 |
| DA-302, Rev. 5 | Sections | Team 2 Architects | 01.04.2022 |
| DA-303, Rev. 5 | Sections | Team 2 Architects | 01.04.2022 |
| DA-304, Rev. 7 | Sections | Team 2 Architects | 29.09.2022 |
| DA-740, Rev. 6 | Material Schedule | Team 2 Architects | 29.09.2022 |
| 1822-03, Issue 2 | Overall Site Plan | Paddock | 13.04.2022 |
| 1822-04, Issue 2 | Landscape DA Plan 1 of 4 | Paddock | 13.04.2022 |
| 1822-05, Issue 2 | Landscape DA Plan 2 of 4 | Paddock | 13.04.2022 |
| 1822-06, Issue 2 | Landscape DA Plan 3 of 4 | Paddock | 13.04.2022 |
| 1822-08, Issue 2 | Elevation A, B & C | Paddock | 13.04.2022 |
| 1822-09, Issue 2 | Sectional Elevation A, B & C | Paddock | 13.04.2022 |
| 1822-010, Issue 2 | Sectional Elevation, D, E (proposed), E (Future) | Paddock | 13.04.2022 |
| 1822-013, Issue 2 | Planting DA Plan 1 of 1 Planting Area Schedules | Paddock | 13.04.2022 |
| 1822-014, Issue 2 | Planting Schedule Maintenance Notes / Requirements Plant Images 1 of 2 | Paddock | 13.04.2022 |
| 1822-015, Issue 2 | Planting Schedule Maintenance Notes / Requirements Plant Images 2 of 2 | Paddock | 13.04.2022 |
| 1822-016, Issue 2 | Existing Tree Plan (Information purposes only - refer to arborist report and plans prepared by Tree IQ) | Paddock | 13.04.2022 |
| 1822-017, Issue 2 | Indicative Materials & Finishes Palette | Paddock | 13.04.2022 |
| **As amended by:** | | | |
| DA-010 | Site Plan | Team 2 Architects | Revision 13  07/03/2024 |
| DA-120 | Typical Floor Plan (Level 2&3) | Team 2 Architects | Revision 12  21/04/2023 |
| DA-121 | Typical Floor Plan Block A | Team 2 Architects | Revision 10  21/04/2023 |
| DA-122 | Typical Floor Plan Block B | Team 2 Architects | Revision 10  21/04/2023 |
| DA-123 | Typical Floor Plan Block C | Team 2 Architects | Revision 11  21/04/2023 |
| DA-140 | Level 4 Floor Plan | Team 2 Architects | Revision 1  21/04/2023 |
| DA-141 | Level 4 Floor Plan Block A | Team 2 Architects | Revision 1  21/04/2023 |
| DA-142 | Level 4 Floor Plan Block B | Team 2 Architects | Revision 1  21/04/2023 |
| DA-143 | Level 4 Floor Plan Block C | Team 2 Architects | Revision 1  21/04/2023 |
| DA-150 | Roof Terrace Plan | Team 2 Architects | Revision 13  07/03/2024 |
| DA-151 | Roof Terrace Plan Block A | Team 2 Architects | Revision 4  07/03/2024 |
| DA-152 | Roof Terrace Plan Block B | Team 2 Architects | Revision 4  07/03/2024 |
| DA-152 | Roof Plan | Team 2 Architects | Revision 3  07/03/2024 |
| DA-200 | Elevations | Team 2 Architects | Revision 15  07/03/2024 |
| DA-201 | Elevations – Block A | Team 2 Architects | Revision 12  07/03/2024 |
| DA-202 | Elevations – Block A | Team 2 Architects | Revision 12  07/03/2024 |
| DA-203 | Elevations – Block B | Team 2 Architects | Revision 12  07/03/2024 |
| DA-204 | Elevations – Block C | Team 2 Architects | Revision 13  07/03/2024 |
| DA-300 | Sections | Team 2 Architects | Revision 11  07/03/2024 |
| DA-301 | Sections | Team 2 Architects | Revision 9  07/03/2024 |
| DA-302 | Sections | Team 2 Architects | Revision 8  08/12/2023 |
| DA-303 | Sections | Team 2 Architects | Revision 11  07/03/2024 |
| DA-304 | Sections | Team 2 Architects | Revision 4  07/03/2024 |
| DA-740 | Material Schedule | Team 2 Architects | Revision 8  08/12/2023 |

|  |  |  |  |
| --- | --- | --- | --- |
| **Supporting Information / Documents** | | | |
| ***Reference*** | ***Title/Description*** | ***Prepared By*** | ***Date/s*** |
| 971085M\_03 | BASIX Certificate | Northrop Consulting Engineers | 11.04.22 |
| Rev. 1.5 | Waste Management Plan | AusWide Consulting | February 2022 |
| 2-4/ROTH/AIA/B, Rev. B | Arboricultural Impact Assessment Tree Protection Specification | Tree IQ | 11.03.19 |
| - | Acoustic Memorandum | Ben White  Pulse White Noise Acoustics | 11 March 2024 |

***Note 1****: Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 4.55 of the Environmental Planning and Assessment Act.*

***Note 2****: A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.*

***Note 3****: The approved plans and supporting documentation may be subject to conditions imposed under section 4.17 of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).*

The following attachments are provided:

* Architectural Plans
* Acoustic Memorandum
* Statement of Environmental Effect
* Design Verification Statement in Response to DRP comments