

SYDNEY NORTH PLANNING PANEL (SNPP)

PANEL REFERENCE:	2017SNH043
DA NUMBER:	MOD2017/0080
LOCAL GOVERNMENT AREA:	City of Ryde
PROPOSED DEVELOPMENT:	S96 (2) Modification Application to Stages 2 and 3 of the Shepherd's Bay redevelopment including the provision of 45 additional dwellings within the approved building envelope, relocation of community facility, residential gymnasium, increase of commercial floor space, 33 additional car parking spaces and associated alterations.
STREET ADDRESS:	6-18 Nancarrow Avenue, 9-11 Rothesay Avenue and 41 Belmore Street, Ryde.
APPLICANT:	Shepherds Bay Urban Development Pty Ltd
NUMBER OF SUBMISSIONS:	1 submission
REGIONAL DEVELOPMENT CRITERIA (SCHEDULE 4A OF THE ACT):	Capital Investment Value (CIV) for original application exceeded \$20 million.
LIST OF ALL RELEVANT S79C(1)(a) MATTERS:	Environmental Planning and Assessment Act, 1979 State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Buildings (SEPP 65); State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX); Deemed State Environmental Planning Policy Plan Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; State Environmental Planning Policy (Infrastructure) 2007; Ryde Local Environmental Plan 2014; and City of Ryde Development Control Plan 2014

LIST ALL DOCUMENTS SUBMITTED WITH THE REPORT FOR THE PANEL'S CONSIDERATION:	Conditions of Consent Letter from TSA in respect to Condition 30
RECOMMENDATION	Approval subject to conditions
REPORT BY:	SJB Planning, consultant town planners to City of Ryde Council.
DATE:	30 June 2017

Summary of s79C matters Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (Clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	NA
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions (S94EF)?	No
Conditions Have draft conditions been provided to the applicant for comment?	Yes

Assessment Report and Recommendation

1 EXECUTIVE SUMMARY

The following report is an assessment of an application made under S96(2) of the Environmental Planning and Assessment Act 1979, to amend the original Development Application for the construction of two residential flat buildings at 6-18 Nancarrow Avenue, 9-11 Rothesay Avenue and 41 Belmore Street, Ryde comprising 453 units with a shared basement parking level.

The site on which the development is proposed was included within a Concept Approval MP09_0216 determined by the Planning Assessment Commission (PAC) under Part 3A of the Environmental Planning and Assessment Act.

This application relates to Stages 2 and 3 of the Concept Approval that was approved under Development Consent 2015/0018, issued by the Sydney East Joint Regional Planning Panel on October 15 2015.

The proposed modification is a result of Concept Approval MP09_216 (Mod 2) which approved an increase in the dwelling cap for the entire precinct from 2,005 dwellings to 2,033 dwellings; minor increase in building height for part of Stage 2 building envelope by 300mm and provision of additional storeys within Stage 2 and 3 by converting void spaces into habitable storeys. In light of the above, the proposal seeks consent for construction of 45 additional dwellings (revised total 498 dwellings), increase in building height of 300mm for Stage 2; 33 additional car parking spaces, provision of a 1,058m² community facility and associated alterations.

The consent authority for the purposes of determining the application is the Sydney North Planning Panel (SNPP) as the original approved development had a Capital Investment Value over \$20 million.

The application for modification was publicly exhibited during the period between 12 May 2017 and 7 June 2017. One (1) submission was received with the key issues raised including concern regarding impacts relative to the original approval. The matters raised in the submission are discussed in detail in the report.

The proposed amendments to the application result from ongoing discussions with Council in relation to the timing, location and size of the proposed community space. A review of the amended details including revised floor plans and elevations, indicate that the development is generally consistent with the Concept Approval and relevant planning controls. Any non compliances and issues raised in the submissions have been addressed and discussed further in the report.

It is recommended that the proposed modification to the approved development be approved, subject to conditions of consent.

2 APPLICATION DETAILS

Name of Applicant: Shepherd's Bay Urban Development Pty Ltd

Owner of the site: 357 HPG Pty Ltd

Estimated value of works: \$156, 354, 311.30 (Original DA)

Disclosures: No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by any persons.

3 SITE DESCRIPTION

The site is located within the Shepherds Bay foreshore approximately 14 kilometres north-west of the Sydney CBD on the Parramatta River. The area has been identified by both the State Government and Council as an area for transition from traditional manufacturing and industrial uses to a higher density mixed use residential neighbourhood. The surrounding area is, as a result, characterised by a mix of industrial/ warehouse buildings, high density residential flat buildings and low density residential housing.

The site is privately owned land known as 6-18 Nancarrow Avenue, 9-11 Rothesay Avenue and 41 Belmore Street, Ryde. The land is legally described as Lot 1 DP 107255, Lot 1 DP 322641, Lot 1 DP 703858, Lot 11-16 inclusive and Lot 18 DP 7130.

A location plan of the site is demonstrated in Figure 1.

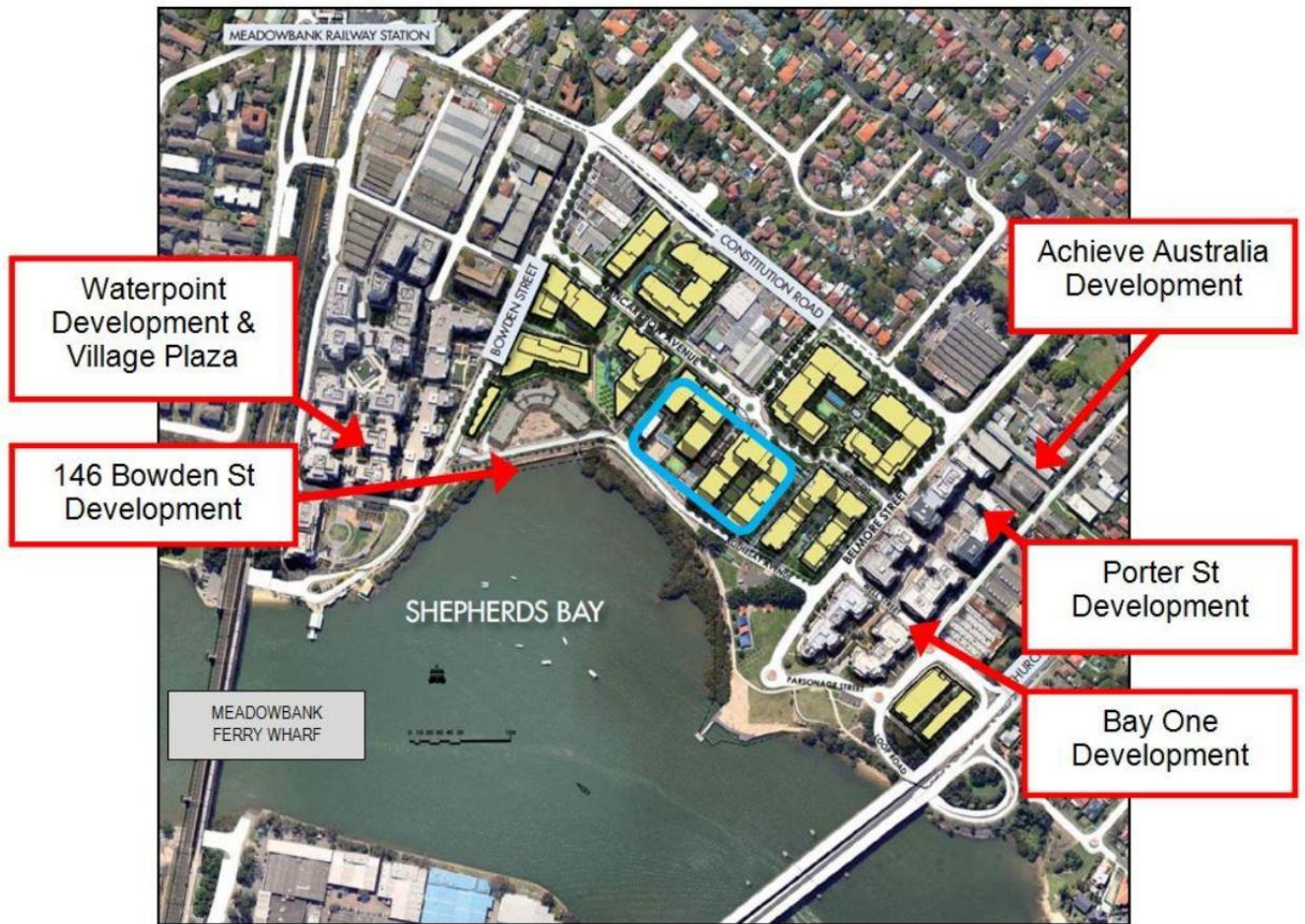


Figure 1. Location plan of Stages 2 and 3 (marked in blue) relative to mixed use developments in the locality.

4 **SITE DETAILS**

Total site area:	13, 650m ²
Frontage to Nancarrow Avenue:	161.245m
Frontage to Nancarrow Lane:	50.82m
Frontage to Rothesay Avenue:	147.44m
Land use zone:	B4 Mixed Use Ryde Local Environmental Plan 2014

5 **BACKGROUND**

The site on which the development is proposed was included within a Concept Approval for a nine (9) stage development that was determined under the former Part 3A of the *Environmental Planning and Assessment Act 1979*.

On 6 March 2013 the Planning Assessment Commission (PAC) approved a Concept Plan for the “Shepherds Bay” site. The Concept Plan MP09_0216 as described in the Instrument of Approval is for a mixed use residential, retail, commercial development and includes:

“Use of the site for a mixed use development including residential, retail, commercial and community uses incorporating:

- a) Building envelopes for 10 buildings incorporating basement level parking;*
- b) Infrastructure works to support the development including:*
- c) Upgrades to the local road network;*
- d) Stormwater infrastructure works;*
- e) Publically accessible open space and through site links; and*
- f) Pedestrian and cycle pathways. “*

Figure 2 illustrates the site plan for Shepherds Bay including all approved stages.



Figure 2. Site plan of Shepherds Bay

A Section 75W Modification Application (Mod 1) was approved by the PAC on 16 October 2014 and resulted in amendments to several conditions of consent in order to allow for a more logical construction process and to improve the proposed built form. This modification included revising the indicative staging of the 10 buildings and the clarification of the delivery of certain infrastructure works which were tied to various stages. It also included the provision of a community facility of 1000m².

On 15 October 2016, the Sydney East Joint Regional Planning Panel approved works for Stages 2 and 3 under application reference number 2015SYE016 and LDA2015/18 comprising the following:

Construction and occupation of two residential flat buildings consisting of 453 apartments comprising 227 x 1 bed, 194 x 2 bed, 17 x 3 bed, 12 x loft & 3 x studio units. Construction of shared basement car parking areas for Stages 2 and 3 with access to Rothesay Avenue for 605 parking spaces. Construction and dedication to Council of a publicly accessible foreshore plaza and link, connecting roads, landscaping and drainage works at 18 Nancarrow Avenue, 9-11 Rothesay Avenue and 41 Belmore Street.

It is noted that a community facility was required by Condition 18 of the Mod 1 Concept Approval, however during assessment of the abovementioned application Council advised that the proposed community facility did not deliver an appropriate space due to its size, location and functionality. As such Council entered into negotiations with the applicant to secure an alternative location for a community facility at a later stage of the development. In this regard the respective parties entered into a Deed relating to the revised location and function of the community facility and reference to such was specified in Condition 14 of Development Consent LDA2015/18. The revised location however was not ultimately supported by Council or the PAC. This resulted in the Deed being nullified and the community facility needing to be provided in Stages 2 and 3. Council and the applicant have agreed on a revised location in Stages 2 and 3 for the community facility.

On 16 January 2017, the PAC approved further modification of the Concept Approval via MP09_0216 MOD2 which incorporated the following with regards to Stages 2 and 3:

- Increase in height of the Stage 2 building envelope by 300mm;
- Various increases (between one to three storeys) to the number of storeys within Stage 2 and 3 building envelopes;
- Delete further environmental assessment requirement 3A to allow additional storeys on steeply sloping land;
- Construct an additional 28 dwellings within the modified building envelope;
- Construct an additional 17 dwellings in the approved community facility location; and
- The maximum number of dwellings across the entire site shall not exceed 2,033.

On 18 April 2017, a S96(2) modification application was lodged with City of Ryde Council as described above.

On 18 May 2017, the City of Ryde Council appointed SJB Planning to undertake an independent planning assessment of the S96(2) modification application.

Public exhibition of the application occurred from 12 May 2017 to 7 June 2017. Two submission letters were received. (One of these submissions was later withdrawn).

6 DESCRIPTION OF PROPOSAL

The proposed modification involves the following:

- Relocation of the community facility from the previously identified central location within the Stage 3 building to the western elevation of the Stage 3 building.
- The addition of forty five (45) dwellings within the approved building envelope. To accommodate these dwellings, amendments are also proposed to the layout of 90 other dwellings.
- Without increasing the approved maximum building height of RL55.50, the above adjustments result in the Stage 2 building increasing from 10 storeys to 12 storeys and the Stage 3 building increasing from 10 storeys to 11 storeys
- Associated minor amendments including thirty three (33) additional car parking spaces, additional lifts, provision of a gym for residents, fire exits and landscaping
- An increase in the retail floor space from 151m² to 595m².

The proposed modification is a result of Concept Approval MP09_216 (Mod 2) which increased the dwelling cap for the entire precinct from 2,005 dwellings to 2,033 dwellings; minor increase in building height for part of Stage 2 building envelope by 300mm and provision of additional storeys within Stage 2 and 3 by converting void spaces into habitable storeys. In light of the above, the proposal seeks consent for construction of 45 additional dwellings (revised total 498 dwellings), increase in building height of 300mm for Stage 2; 33 additional car parking spaces, provision of a 1,058m² community facility and associated alterations. Details on a floor by floor basis are listed below:

Lower basement and basement levels

- Modification to layout of 4 approved apartments (Stage 2); and
- Relocation of stairs and modification of parking layout (Stage 3).

Upper basement

- Modification to parking layout (Stage 2);
- Additional landscaping (Stage 2 and 3);
- Modification to layout of 1 approved apartment (Stage 2);
- Relocation of community facility to the upper basement (Stage 2);

- Relocation of approved retail space from lower ground floor level and increase in area from 181m² to 595m² (Stage 2);
- Addition of a lift access point between Stage 2 and 3;
- Deletion of multiple level changes and large curved stairwell from central communal courtyard (Stage 2); and
- Modification to layout of 4 approved apartments (Stage 2).

Lower ground floor level

- Relocation of community facility and construction of 7 additional apartments (Stage 2);
- Modification to parking layout (Stage 2);
- Additional landscaping (Stage 2 and 3);
- Modification to 2 existing apartments:
- Additional car parking (Stage 2);
- Removal of café / mini mart and construction of 4 additional apartments (Stage 3); and
- New car parking space (Stage 3)

Ground floor level

- Construction of 2 new apartments (Stage 2);
- Modification to layout of 6 approved apartments (Stage 2);
- Modification to landscaping (Stage 2);
- New car parking space (Stage 2)
- Construction of 3 new apartments (Stage 3);
- Modification to layout of 1 approved apartment (Stage 3); and
- Additional car parking and plant rooms (Stage 3).

Level 1

- Removal of stairs / entrance (Stage 2 and 3);
- Construction of 2 new apartments (Stage 2)
- Modification to layout of 7 approved apartments (Stage 2);
- Addition of a gymnasium for residents only;
- New car parking space (Stage 2);
- Construction of 1 new apartments (Stage 3);
- Modification to layout of 3 approved apartments (Stage 3); and
- Additional car parking and plant rooms (Stage 3).

Level 2

- Removal of stairs / entrance (Stage 2);
- Construction of 1 new apartment (Stage 2); and
- Modification to layout of 12 approved apartment (Stage 2 and 3).

Level 3

- Construction of 6 new apartments (Stage 2);
- Modification to layout of 8 approved apartments (Stage 2); and
- Modification to layout of 2 approved apartments (Stage 3).

Level 4

- Modification to layout of 5 approved apartments (Stage 2); and
- Modification to layout of 2 approved apartments (Stage 3).

Level 5

- Modification to layout of 5 approved apartments (Stage 2); and
- Modification to layout of 2 approved apartments (Stage 3).

Level 6

- Modification to layout of 3 approved apartments (Stage 2); and
- Modification to layout of 2 approved apartments (Stage 3).

Level 7

- Modification to layout of 6 approved apartments (Stage 2); and
- Modification to layout of 2 approved apartments (Stage 3).

Level 8

- Construction of 9 new apartments;
- Modification to layout of 1 approved apartment (Stage 2);
- Increase building height by 300mm to a portion of the envelope (as allowed for in Concept Approval MP09_0216 Modification 2) (Stage 2);
- Construction of 7 new apartments (Stage 3); and
- Modification to layout of 2 approved apartments (Stage 3).

Level 9

- Deletion of 1 existing apartment and modification to 3 approved apartments (Stage 2); and
- Modification to layout of 2 approved apartments (Stage 3).

Level 10

- Modification to layout of 1 approved apartment (Stage 2); and
- Modification to layout of 2 approved apartments (Stage 3).

Level 11

- Construction of 1 new apartment (Stage 2); and
- Modification to layout of 2 approved apartments (Stage 2).

7 APPLICABLE PLANNING CONTROLS

The site on which the development is proposed is subject to a modified Part 3A Concept Approval. Notwithstanding the fact that Part 3A has been repealed, Section 3B of Schedule 6A Transitional arrangements – repeal of Part 3A of the EPA Act, provides the following:

(2) After the repeal of Part 3A, the following provisions apply (despite anything to the contrary in section 75P (2)) if approval to carry out any development to which this clause applies is subject to Part 4 or 5 of the Act:

- a) If Part 4 applies to the carrying out of the development, the development is taken to be development that may be carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
- b) Any development standard that is within the terms of the approval of the concept plan has effect,*
- c) A consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan,*
- d) A consent authority may grant consent under Part 4 for the development without complying with any requirement under any environmental planning instrument relating to a master plan,*
- e) The provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.*

In summary, the modified Concept Approval remains in place; future applications for development of the land are to be determined under Part 4 of the EPA Act; any development application must be generally consistent with the terms of the approval of the concept plan; and the terms of the Concept Approval prevail over any environmental planning instrument and any development control plan in the event of any inconsistency.

The fundamental guidance for assessment is consistency with the modified Concept Approval. The location of Stages 2 and 3 is shown in the extent of approved modified drawing PPR-002-E in Figure 3.

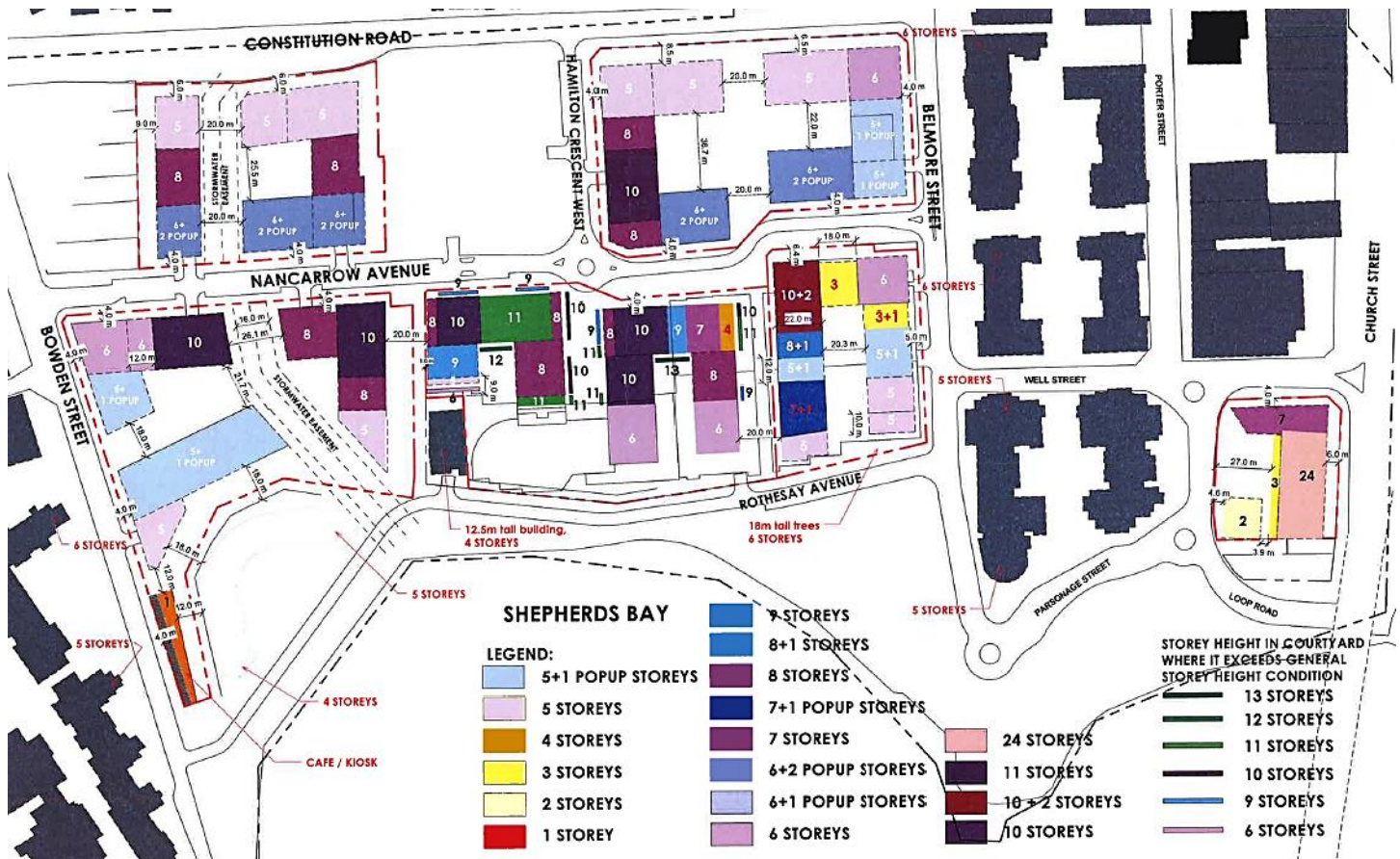


Figure 3. Modified Concept Approval Plan – Maximum Number of Storeys Above Ground Level (Finished) Plan.

Relevant elevations/sections showing the location of the basement levels below the building footprints and dimensioned setbacks to property boundaries are shown in Figures 4 and 5.

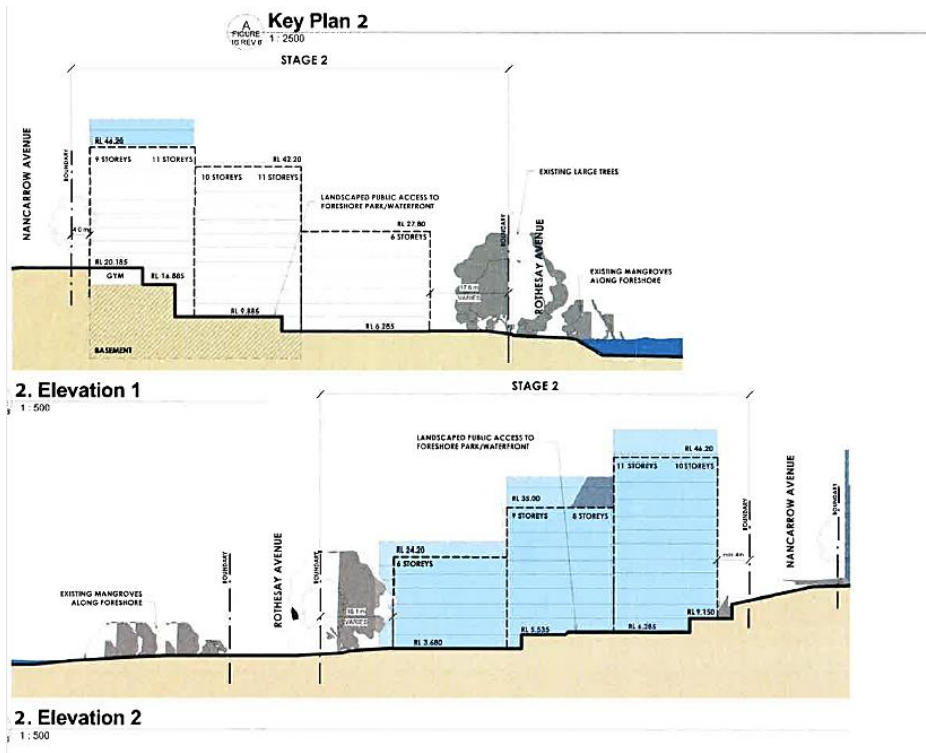


Figure 4. Approved building envelope for Stage 2.

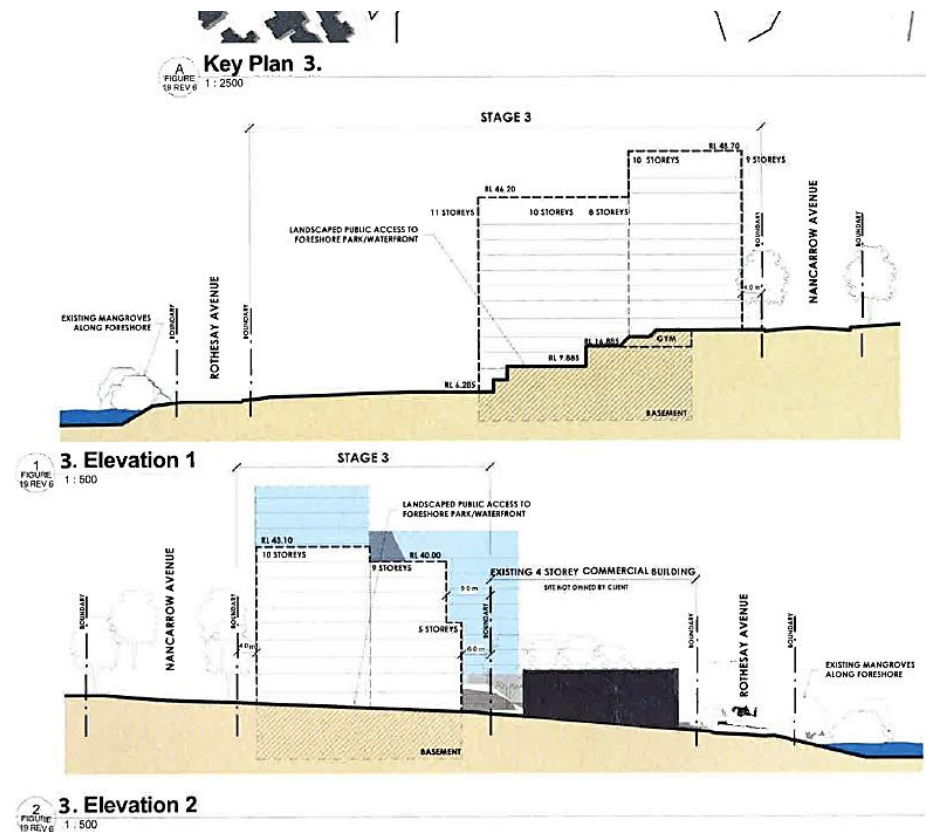
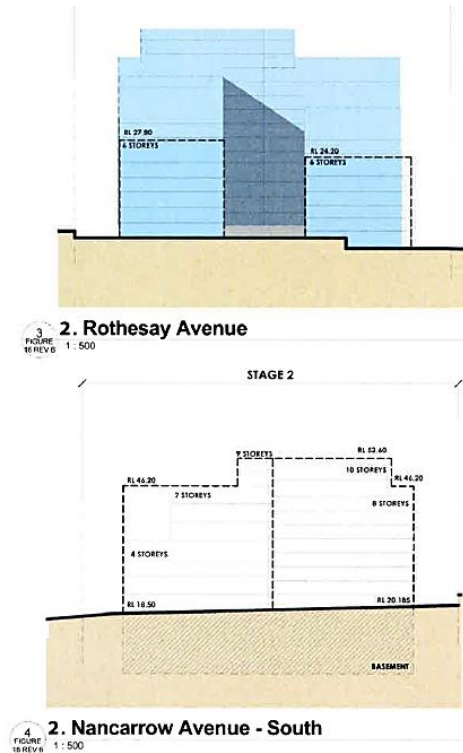
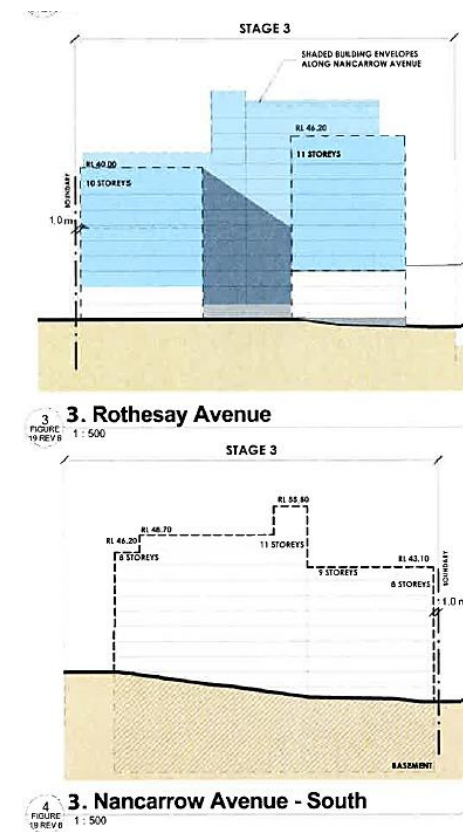


Figure 5. Approved building envelope for Stage 3.



In terms of consistency with the modified Concept Approval it is reasonable to conclude that the proposed modifications to Stage 2 and 3 do not create any inconsistency with the Concept Approval. This is based on the following:

- Stage 2 and 3 buildings remain in the approved location;
- Stage 2 and 3 buildings remain within the maximum building height;
- The resultant number of apartments, although increased, remains within the cap approved under the concept approval for the entire site;
- The modified proposal incorporates enhanced amenity provisions as required by Condition 21 of the Concept Approval.
- The resultant number of car parking spaces, although increased, remains within the cap approved under the concept approval for the entire site; and
- The required community facility will be delivered within the upper basement of Stage 3. The community facility has been designed to the satisfaction of the then Acting General Manager and Acting Director City Planning and Development at City of Ryde.

In addition, the following State legislation and Environmental Planning Instruments are of relevance to the development.

- State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Buildings (SEPP 65);
- Apartment Design Guide (ADG);
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX);
- Deemed State Environmental Planning Policy Plan Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 ;
- State Environmental Planning Policy (Infrastructure) 2007;
- Water Management Act 2000;
- Ryde Local Environmental Plan 2014; and
- Ryde Development Control Plan 2014.

8 REFERRALS

External referrals

Viva Energy Australia

Viva Energy Australia (Viva) own and operate a High Pressure Pipeline (“Gore Bay Pipeline”) which traverses the Shepherds Bay Development site between Bowden and Belmore Street. Initially, Viva raised concerns that *“According to the details provided in the Application, it appears that the proposed Community Centre is within*

the measurement length of the “Pipeline”. However, in correspondence dated 1 June 2017 Viva withdrew their objection noting that “Holdmark needs to comply with the condition of consent in relation to working / near / crossing the easement.”

Department of Planning and Environment

Clarification was sought from the Department with regard to the proposed modification which seeks consent for the construction of 45 additional apartments within Stage 2 and 3. Whilst it is noted that the 75W Mod2 approval increased the maximum dwelling yield by 28 (total of 2,033 across the entire site), it did not specify a maximum number of dwellings per stage.

In written correspondence dated 11 May 2017, the Department stated the following:

The Department notes that the Concept Approval, as modified by the Commission on 16 January 2017, allows for a total of 2,033 dwellings across the Concept Plan site (including the yet to be developed Stage A).

Whilst the Commission increased the maximum dwelling yield by 28, specifically in relation to the proposed changes to Stage 2 and 3 in its approval of Modification 2, the Concept Approval does not specify a maximum number of dwellings per stage.

Additionally, I note that the Concept Approval provides specific requirements to ensure apartments are provided with a good level of amenity and for the provision of a community facility within Stage 2 or 3.

Internal referrals

City Works and Infrastructure

Traffic

Comments provided by Council’s Traffic Officer have been reproduced below:

“...with regard to the traffic impact assessment provided by the applicant, the following has been noted:

- The total yield under the Modified Concept Plan is 2033.
- The total yield used, inclusive of the 45 additional proposed units, is 1989.
- The applicant is still within the allowable yield limit.
- The proposed 45 units will produce an anticipated 9 vehicles in the peak period.
- 9 vehicles are considered negligible on the network.
- Car parking compliance to be checked by Development Engineer.
- No adjustment to vehicle access.

- Planner to determine if proposed location of Community Centre is suitable.

Car Parking Numbers

In terms of parking demand, Council's DCP would require the following parking to be provided.

Unit Type	Quantity	Min Req.	Max Req.	
Studio 1	0	0	0	
Bedroom 2	270	162	270	
Bedroom 3	210	189	252	
Bedroom	18	25.2	28.8	
TOTALS	498	376.2	550.8	
		(377)	(551)	
SUB-TOTAL		Min (Residents) 377	Max. (Residents) 551	Visitors 99.6 (100)
TOTAL (Vis included)		476.6	(477)	650.6
				(651)

Type	Approved (m ²)	Proposed S96 (m ²)	Rate (park space / XX m2)	S96 Parking Required
Retail	-	309	25	13
Café	151	286	25	12
Community	1005	1058	-	2 Proposed
Gym	-	796	#	-

- The gym is to be allocated for residents only and therefore generates no additional parking demand.

As the development only contains 640 car parking spaces, based on the above the car parking would be required to allocated as follows:

- 506 residential spaces. (Note: A single row of tandem parking are to be allocated to a single unit only.)
- 100 visitor spaces
- A minimum of 7 car share spaces
- 12 car spaces to service the café component of the development.
- 13 car spaces to service the retail component of the development.
- 2 car spaces to service the parking demand of the community centre.

This matter has been discussed with the applicant and the applicant has advised that they disagree with the car parking rates for the visitors, café and retail component of the development.

In terms of the café and retail space, it is likely that the majority of patrons for these two outlets will be locals living within walking distance to the premises. Given the size of the premises it is unlikely that either outlet would become a “destination” outlet. For these reasons, it is reasonable to reduce the car parking rate for each of these premises to 8. This would represent 65% of the Council’s car parking rate in the DCP.

The Apartment Design Guide requires that resident and visitor car parking is to be in accordance with the requirements of the Guide to Traffic Generating Developments or the Council rate, whichever is the lesser. The Guide to Traffic Generating Developments requires 1 visitor space per 7 units whereas Council’s DCP requires 1 space per 5 units. As the Guide to Traffic Generating Developments is the lesser rate, this is the applicable rate rather than Council’s DCP. This results in the development being required to provide 72 visitor spaces rather than 100 visitor spaces.

As the architectural plans only propose 640 car parking spaces, it is recommended that condition 124 of the development consent be amended to read as follows:

124. *Parking Allocation.* *Subject to condition 30, the development must maintain and provide the following parking allocations, listed as follows:*

- *A maximum of 543 residential spaces (Note: A single row of tandem parking are to be allocated to a single unit only.)*
- *A minimum of 72 visitor spaces*
- *A minimum of 7 car share spaces*
- *A minimum of 8 car spaces to service the café component of the development.*
- *A minimum of 8 car spaces to service the retail component of the development.*
- *A minimum of 2 car spaces to service the parking demand of the community centre.*

Reconfiguration of the car park

The car parking configuration has been reviewed by Council’s Senior Coordinator Development Engineers who has provided the following comments:

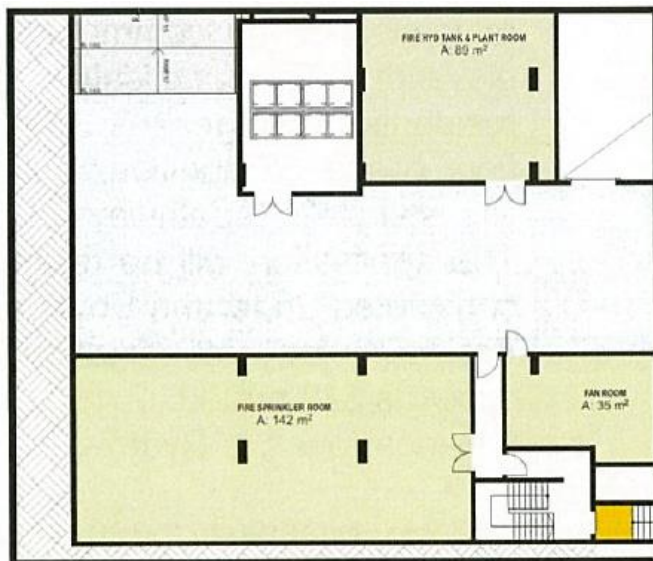
A review of the revised layout with respect to the requirements of AS 2890.1 are noted as follows:

- *The plans have expanded a bin room located on the inside corner of the main vehicle entry to the basement garage. Under the original approval (left figure below) the room was setback from the ramp and provided a splayed corner.*

With the car share spaces opposite, aisle width was slightly wider. As can be noted in the vehicle swept path analysis below, the approved layout was not ideal but tolerable.



The proposed configuration (below) has provided a hard corner in which presents as an inefficient and unsafe arrangement. A vehicle emerging (on the inside path) will take a wider swept path to navigate around the corner.



Noting that the works for Stages 2 & 3 are currently well underway and this element has likely been constructed, it is advised that centreline markings be implemented in the access aisle on approach to the corner to prevent conflicting flows and the walls of the bin room be modified to provide visual permeability between conflicting vehicle flows.

- *The visitor parking areas are noted to have aisles of 21 parking bays long. In accordance with AS 2890.1 Section 2.4.2 (c) for parking areas open to the public (ie visitor parking areas), the maximum length of parking aisles are to be no more than 6 parking bays long unless a turning bay is located at the*

end of the aisle to enable vehicles to exit in a forward manner if there are no vacant spaces in which to park. Accordingly this will require one parking space located at the dead end of each aisle of visitor parking on Basement level (three spaces) to be converted to a turning bay. The three visitor spaces can be relocated to adjoin the 4 visitor spaces fronting the boom gate to resident parking on the same level.

This is addressed in the revised condition 30.

- Further the above, the aisle incorporating both carshare spaces and visitor parking should relocate (swap) the visitor parking closer to the main circulation aisle thereby reducing the need for a turning bay at the end.*
- There are 21 sets of tandem parking spaces provided. As noted in the original consent, this will warrant that each set of tandem parking to be allocated to a single unit. With the revised proposal accommodating 18 lots of 3 bedroom units, 3 sets of the 2 bedroom units would also need to be allocated a set. With a total of 210 lots of 2 bedroom units, this presents as a relatively minor difference and is tolerable.*
- The proposed retail area is noted to have a pedestrian entry to the basement which opens up at a corner at the base of the ramp connecting the upper basement parking level with the lower ground level. Due to the number of vehicle conflict points in this location, it is warranted that a pedestrian path be linemarked along the southern side of the access aisle to guide pedestrians clear of vehicle swept paths and provide pedestrian awareness for drivers approaching this location. This is addressed in the revised condition 30.*

For the above reasons, The Senior Coordinator Development Engineers recommended that condition 30 be amended to read as follows:

30. Vehicle Access & Parking. All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) must be undertaken;

- To facilitate vehicle access and sight distance at the corner located on Basement Level adjoining a waste bin room (opposite the Fire Sprinkler Room), the wall of the bin room must provide a splay of minimum 2m by 2m dimensions on the corner and centreline line marking on both approach directions to the corner, to ensure there is separation of conflicting vehicle flows. In the event that the splay cannot be provided due to construction of significant structural elements in this region (verified by a Structural Engineer), the walls of the waste

bin room must be visually permeable in the region of the splay so as to maximise drivers sight distance to approaching traffic.

- b) All retail and visitor parking aisles greater than 6 bays long and with no through access (dead end) must provide vehicle turning bay at the end of the aisle to enable vehicles to turn around should every space in the aisle be occupied. Vehicle turning bays may have the same dimensions as a single parking space and be sufficiently marked to clearly indicate the space is intended for use as a vehicle turning bay.
- c) The visitor spaces located in the same parking aisle as the car share spaces must be relocated to adjoin the main vehicle access aisle. This is to prevent the need for a turning bay at the end of this aisle.
- d) Should the pedestrian access from the retail floor area to the basement garage be open to the public, a line marked pedestrian path of travel must be implemented to the first parking module. The line marking is to ensure there is a clear demarcation between vehicle and pedestrians in the vicinity of the base of the ramp.
- e) With reference to the condition "*Parking Allocation*", the Basement Level parking area is to reconfigure the boom gate access so as to accommodate the reallocation of parking.

These amendment(s) must be clearly marked on the plans submitted with the application for a Construction Certificate.

The applicant has advised that they disagree with the wording of this condition and want the condition to be more general. The changes to the condition as requested by the applicant are as follows:

30. Vehicle Access & Parking. All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) must be undertaken;

- a) To facilitate vehicle access and sight distance at the corner located on Basement Level adjoining a waste bin room (opposite the Fire Sprinkler Room), **a convex mirror shall be installed diagonally opposite the bin room.** ~~the wall of the bin room must provide a splay of minimum 2m by 2m dimensions on the corner and centreline line marking on both approach directions to the corner, to ensure there is separation of conflicting vehicle flows. In the event that the splay cannot be provided due to construction of significant structural elements in this region (verified by a Structural Engineer), the walls of the waste bin room must be visually permeable in the region of the splay so as to maximise drivers sight distance to approaching traffic.~~

- b) ***All retail and visitor and car share parking aisles must nbe reviewed to ensure compliance with the provisions of AS2890. Any vehicle turning bays must have the required dimensions and be sufficiently marked to clearly indicate the space is intended for use as a vehicle turning bay.*** ~~All retail and visitor parking aisles greater than 6 bays long and with no through access (dead end) must provide vehicle turning bay at the end of the aisle to enable vehicles to turn around should every space in the aisle be occupied. Vehicle turning bays may have the same dimensions as a single parking space and be sufficiently marked to clearly indicate the space is intended for use as a vehicle turning bay.~~
- c) ~~The visitor spaces located in the same parking aisle as the car share spaces must be relocated to adjoin the main vehicle access aisle. This is to prevent the need for a turning bay at the end of this aisle.~~
- d) Should the pedestrian access from the retail floor area to the basement garage be open to the public, a line marked pedestrian path of travel must be implemented to the first parking module. The line marking is to ensure there is a clear demarcation between vehicle and pedestrians in the vicinity of the base of the ramp.
- e) ***With reference to the Condition Parking Allocation (condition 124), the boom gate access must accommodate any re-allocation of parking.*** ~~With reference to the condition "Parking Allocation", the Basement Level parking area is to reconfigure the boom gate access so as to accommodate the reallocation of parking.~~

These amendment(s) must be clearly marked on the plans submitted with the application for a ***the relevant*** Construction Certificate.

The applicant has provided a letter to Council from TSA (traffic engineers) in respect to the changes requested to Council 30. In terms of part a of the above condition this letter has stated the following:

Condition 30(a) - It is understood that modifications to the corner of the waste bin room to provide a 2m x 2m splay cannot be undertaken due to the location of the structural column and garbage chutes. Further it is understood that the walls of the waste bin room cannot be made permeable due to fire safety reasons. In light of these structural design reasons, in addressing Council's concerns regarding the blind spot created by the corner of the waste bin room affecting visibility of approaching vehicles in the opposite direction, it has been previously recommended to Council by City Plan Services that the provision of a convex mirror be considered to improve sight distance at that location. This Practice supports such measures upon review of the plans and recommends that the convex mirror should be installed directly opposite the waste bin room and adjacent to the fire sprinkler room.

In addition to the above, it is recommended that a centreline marking is also proposed to be implemented to provide effective separation between two vehicles travelling in opposing directions in accordance with draft Consent Condition 30(a).

I support the above comments.

The Applicant's Traffic Engineer has stated the following in terms of condition 30 b, c, d and e:

Condition 30 (b, c, d and e) – It is understood that the current off-street parking area design is able to be modified to comply with the design requirements specified within parts b, c, d and e of draft Consent Condition 30. Please refer to the amended Section 96 plans to be submitted by Turner under a separate cover.

Based on the advice from the Applicant's Traffic Engineer, condition 30 should be amended to read as follows:

30. Vehicle Access & Parking. All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) must be undertaken;

- a) To facilitate vehicle access and sight distance at the corner located on Basement Level adjoining a waste bin room (opposite the Fire Sprinkler Room), **a convex mirror shall be installed diagonally opposite the bin room** ~~the wall of the bin room must provide a splay of minimum 2m by 2m dimensions on the corner and centreline line marking on both approach directions to the corner, to ensure there is separation of conflicting vehicle flows. In the event that the splay cannot be provided due to construction of significant structural elements in this region (verified by a Structural Engineer), the walls of the waste bin room must be visually permeable in the region of the splay so as to maximise drivers sight distance to approaching traffic.~~

- b) All retail and visitor parking aisles greater than 6 bays long and with no through access (dead end) must provide vehicle turning bay at the end of the aisle to enable vehicles to turn around should every space in the aisle be occupied. Vehicle turning bays may have the same dimensions as a single parking space and be sufficiently marked to clearly indicate the space is intended for use as a vehicle turning bay.
- c) The visitor spaces located in the same parking aisle as the car share spaces must be relocated to adjoin the main vehicle access aisle. This is to prevent the need for a turning bay at the end of this aisle.
- d) Should the pedestrian access from the retail floor area to the basement garage be open to the public, a line marked pedestrian path of travel must be implemented to the first parking module. The line marking is to ensure there is a clear demarcation between vehicle and pedestrians in the vicinity of the base of the ramp.
- e) With reference to the condition “*Parking Allocation*”, the Basement Level parking area is to reconfigure the boom gate access so as to accommodate the reallocation of parking.

These amendment(s) must be clearly marked on the plans submitted with the application for **the relevant** Construction Certificate.

Therefore, noting the above, the Traffic Department raise no objection to the proposed alterations subject to the original conditions imposed.

Waste

Comments provided by Council’s Waste Officer have been reproduced below:

This modification is for an additional 45 units and relocation of the Community Facility. The 7 bin chutes are still adequate to house the bins required for the new total of 498 units.

Bin Configuration

21 x 1100L waste bins serviced three times per week

30 x 660L recycle bins serviced twice per week.

The management of the hard waste storage rooms will need to be monitored to ensure overflow does not occur.

In light of the above, Council’s Waste Officer has no objection subject to conditions.

City Planning

Council's Acting Manager City Planning has confirmed that the size, location and layout of the proposed Community Facility in Stage 3 are satisfactory.

9 PUBLIC NOTIFICATION AND SUBMISSIONS

The development application was publicly exhibited during the period of 12 May 2017 to 7 June 2017. During this time 2 submissions were received.

One of these submissions was Viva Energy Australia (Viva) who own and operate a High Pressure Pipeline ("Gore Bay Pipeline") which traverses the Shepherds Bay Development site between Bowden and Belmore Streets. Initially, Viva raised concerns that *"According to the details provided in the Application, it appears that the proposed Community Centre is within the measurement length of the "Pipeline".* However, in correspondence dated 1 June 2017 Viva withdrew their objection noting that *"Holdmark needs to comply with the condition of consent in relation to working / near / crossing the easement."*

The second submission objected to the development and raised the following issues:

- *Council should make improvements to how it provides a URL link to Council's web site as the link provides 20 to 30 projects which need to be looked at to find the applicable development. The link also includes too many historical supporting documents.*

Comment: This is not applicable to the assessment of the Section 96 modification.

- *Council should save paper and not send the "How to Make Submissions" page with Council's notification letter. This could be provided as a simple web link to a standard page.*

Comment: This is not applicable to the assessment of the Section 96 modification.

- *If the DA involves increasing the number of dwellings, more cars, more population resulting in crowds and greater consumption of natural resources, the application should be rejected in principle.*

Comment: This application is consistent with the Modified Concept Plan in terms of dwelling numbers. The applicant can lawfully submit a Section 96 application which must be assessed by Council and determined by the SNPP. It is not possible to reject a Section 96 application on principle.

- *Council should ask the developer to build a new playground in front of Stages 2 and 3 as Anderson Park is not big enough to accommodate the increase in population.*

Comment: Council cannot require the applicant to undertake works such as this on their own property. However, Council can impose a Section 94 Contribution for the additional apartments. Part of this money will go towards the provision and betterment of open spaces.

10 PLANNING ASSESSMENT

An assessment of the Section 96 application in respect of the relevant planning controls including the Modified Concept Approval conditions is detailed below:

10.1 Section 96(2) of the Environmental Planning and Assessment Act, 1979

In accordance with Section 96(2), the consent authority may consider a modification of development consent provided the following matters are taken into consideration:

- Is the proposed development as modified substantially the same as the approved development?
- Whether the application requires concurrence of the relevant Minister, public authority or approval body and any comments submitted.
- Whether any submissions were made in respect of the proposed modification.
- Any relevant matters under Section 79C(1) of the Environmental Planning and Assessment Act, 1979.

These matters have been considered below.

Is the proposed development as modified substantially the same as the approved development?

In determining if a development application is substantially the same as the approved development, the question is whether such changes result in the modified development being essentially or materially the same as the approved development.

A comparison of the resulting elevations by reference to the approved and proposed plans indicates a substantial degree of similarity. This is based on the overall design, scale and form of the development not being substantially altered by the proposed amendments. The critical elements of the proposed development such as the overall massing, height, the building's footprints, the location of pedestrian and vehicle ingress and egress points, the provision of open space and the mixed use of the buildings all remain essentially or materially the same as the original development.

For the above reasons, it is considered that the proposed development is substantially the same as that which was originally approved.

Whether the application requires the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies?

The original development application constituted Integrated Development pursuant to the EP&A Act as the development required approval pursuant to the Water Management Act, 2000. The current application does not propose any changes to the General Terms of Approval issued by NSW Office of Water nor does it propose any works within the area of the site that is affected by the Water Management Act, 2000.

Whether any submissions were made in respect of the proposed modification

As previously advised two submissions were received, one of which was later withdrawn. The issues raised in this submission have been discussed in Section 9 of this report.

Any relevant matters under Section 79C(1) of the Environmental Planning and Assessment Act, 1979.

The following assessment includes the relevant matters under Section 79C of the Environmental Planning and Assessment Act, 1979. This assessment has concluded that the application is satisfactory in respect of these matters.

In summary, the application satisfies the provisions of Section 96(2) of the EP&A Act.

10.2 Modified Concept Approval Conditions

Schedule 2 Part A – Administration Conditions	Comments
<u>Development in Accordance with the Plans and Documentation</u> A2. The development shall be undertaken generally in accordance with MP09_0216, as modified by MP09_0216 MOD1, and <u>MP09 0216 MOD2:</u> - the Environmental Assessment dated 7 January 2011 prepared by Robertson +Marks Architects and PLACE Design Group, except where amended by the Preferred Project Report dated July 2012, including all associated documents and reports; - the S75W Modification Application dated November 2013 prepared by Robertson + Marks Architects and City Plan Services including all documents and reports, except where amended by the:	The proposed modification is generally consistent with the Concept Approval, Modification Approvals and associated documentation/ plans.

- Response to Submissions report dated 28 March 2014 prepared by City Plan Services; and
- Proponents Comments in Response to Council's Submission dated 29 April 2014 prepared by City Plan Services.
- **The S75W Modification Application dated January 2015 prepared by Robertson + Marks Architects and City Plan Services including all documents and reports, except where amended by the:**
 - **Preferred Project Reports dated 3 May 2016 and 13 May 2016 prepared by City Plan Services;**
 - **Letter titled Response to Council's Submission dated 26 August 2016 prepared by City Plan Services; and**
 - **Response to submissions by TfNSW and RMS prepared by City Plan Services received by the Department on 9 September 2016.**
- the Draft Statement of Commitments prepared by Robertson + Marks Architects updated on 5 October 2012, except where amended by the Revised Draft Statement of Commitments prepared by Holdmark dated March 2014; and
- The following drawings:

<i>Drawings Prepared by Robertson + Marks Architects</i>		
<i>Drawing No</i>	<i>Name of Plan</i>	<i>Date</i>
FIGURE 11 REV 2	PREFERRED CONCEPT PLAN	July 2012
PPR 001- D <u>G</u>	MAXIMUM HEIGHT WITH SETBACKS	02/11/13 <u>08/09/16</u>
<u>PPR 002-E</u>	<u>Maximum Number of Storeys Above Ground Level (Finished) Plan</u>	<u>08/09/16</u>
PPR 007-E	INDICATIVE STAGING	09/24/13
S 001/B	SLOPES ON SITE	03/25/2014
FIGURE 14 REV 4 <u>5</u>	STAGE 1 BUILDING ENVELOPE CONTROLS DIAGRAMS	28/06/2012 <u>07/06/16</u>
FIGURE 15 REV 4 <u>5</u>	STAGE 2 <u>4</u> BUILDING ENVELOPE CONTROLS DIAGRAMS	01/18/12 <u>07/06/16</u>
FIGURE 16 REV 4 <u>6</u>	STAGE 3 <u>2</u> BUILDING ENVELOPE CONTROLS DIAGRAMS	01/18/12

	<table> <tr> <td></td><td>DIAGRAMS</td><td>29/04/16</td></tr> <tr> <td>FIGURE 17 REV 4.6</td><td>STAGE 4.5 BUILDING ENVELOPE CONTROLS DIAGRAMS</td><td>04/18/42 07/06/16</td></tr> <tr> <td>FIGURE 18 REV 4.5</td><td>STAGE 5.A BUILDING ENVELOPE CONTROLS DIAGRAMS</td><td>04/18/42 10/06/16</td></tr> <tr> <td>FIGURE 19 REV 4.6</td><td>STAGE 6.3 BUILDING ENVELOPE CONTROLS DIAGRAMS</td><td>04/18/42 26/04/16</td></tr> <tr> <td>FIGURE 20 REV 4.5</td><td>STAGE 7.8 BUILDING ENVELOPE CONTROLS DIAGRAMS</td><td>04/18/42 07/06/16</td></tr> <tr> <td>FIGURE 21 REV 4.5</td><td>STAGE 8.6 BUILDING ENVELOPE CONTROLS DIAGRAMS</td><td>04/18/42 07/06/16</td></tr> <tr> <td>FIGURE 22 REV 4.7</td><td>STAGE 9 BUILDING ENVELOPE CONTROLS DIAGRAMS</td><td>04/18/42 08/09/16</td></tr> <tr> <td>FIGURE 23 REV 4.5</td><td>STAGE 10.7 BUILDING ENVELOPE CONTROLS DIAGRAMS</td><td>04/18/42 07/06/16</td></tr> <tr> <td>FIGURE 29 REV 2</td><td>LANDSCAPE PLAN</td><td>July 2012</td></tr> <tr> <td>FIGURE 30 REV 2</td><td>VEHICULAR ACCESS AND PUBLIC TRANSPORT PLAN</td><td>July 2012</td></tr> <tr> <td>SK01 REV E</td><td>PEDESTRIAN & CYCLEWAY ROUTES</td><td>18 JUNE 2013</td></tr> <tr> <td>FIGURE 32A REV 2</td><td>INDICATIVE ACCESSIBLE CIRCULATION PLAN</td><td>July 2012</td></tr> <tr> <td>FIGURE 33 REV 2</td><td>INDICATIVE COMMUNITY, RETAIL & / OR COMMERCIAL USES LOCATION MAP</td><td>July 2012</td></tr> <tr> <td>FIGURE 50 REV 1</td><td>CONCEPT PLAN LANDSCAPE PLAN</td><td>28/07/14</td></tr> <tr> <td>PPR 003-5</td><td>OPEN SPACE AREA PLAN</td><td>11/01/13</td></tr> </table> Except for as modified by the following pursuant to Section 75O(4) of the Act.		DIAGRAMS	29/04/16	FIGURE 17 REV 4.6	STAGE 4.5 BUILDING ENVELOPE CONTROLS DIAGRAMS	04/18/42 07/06/16	FIGURE 18 REV 4.5	STAGE 5.A BUILDING ENVELOPE CONTROLS DIAGRAMS	04/18/42 10/06/16	FIGURE 19 REV 4.6	STAGE 6.3 BUILDING ENVELOPE CONTROLS DIAGRAMS	04/18/42 26/04/16	FIGURE 20 REV 4.5	STAGE 7.8 BUILDING ENVELOPE CONTROLS DIAGRAMS	04/18/42 07/06/16	FIGURE 21 REV 4.5	STAGE 8.6 BUILDING ENVELOPE CONTROLS DIAGRAMS	04/18/42 07/06/16	FIGURE 22 REV 4.7	STAGE 9 BUILDING ENVELOPE CONTROLS DIAGRAMS	04/18/42 08/09/16	FIGURE 23 REV 4.5	STAGE 10.7 BUILDING ENVELOPE CONTROLS DIAGRAMS	04/18/42 07/06/16	FIGURE 29 REV 2	LANDSCAPE PLAN	July 2012	FIGURE 30 REV 2	VEHICULAR ACCESS AND PUBLIC TRANSPORT PLAN	July 2012	SK01 REV E	PEDESTRIAN & CYCLEWAY ROUTES	18 JUNE 2013	FIGURE 32A REV 2	INDICATIVE ACCESSIBLE CIRCULATION PLAN	July 2012	FIGURE 33 REV 2	INDICATIVE COMMUNITY, RETAIL & / OR COMMERCIAL USES LOCATION MAP	July 2012	FIGURE 50 REV 1	CONCEPT PLAN LANDSCAPE PLAN	28/07/14	PPR 003-5	OPEN SPACE AREA PLAN	11/01/13	
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Inconsistencies Between Documentation A3 In the event of any inconsistency between modifications of the Concept Plan approval identified in this approval and the drawings/documents including Statement of Commitments referred to above, the modifications of the Concept Plan shall prevail.		Noted. Mod 1 and Mod 2 prevail over original approval.																																													
Building Envelopes A4 Building footprints and setbacks are to be generally consistent with the Concept Plan building envelope parameter diagrams for each site, except where amended by the Modifications in Part B of this Approval.		The proposed modifications to the approved building envelopes are consistent with the envelope diagrams including maximum RLs identified within the Modification of Part B of the Concept Approval Mod 2.																																													
Schedule 2 Part A – Terms of Approval A5 is amended by the insertion of the <u>bold and underlined</u> words / numbers and deletion of the bold struck out words/numbers as follows: Maximum Gross Floor Area (GFA) and Dwelling Cap A5		The modified proposal seeks consent for 498 dwellings (additional 45 dwellings from the original consent). The additional dwellings will																																													

1. The maximum GFA for commercial, retail or community uses shall not exceed 10,000m² 2. The maximum number of dwellings shall not exceed 2,005 <u>2,033</u>	result in a total of 1,989 dwellings. The proposal allows for a total of 45 dwellings for Stage A.
Publicly Accessible Open Space, Drainage Reserves and Through Site Links A6 All public open spaces, drainage reserves and through site links shall be publicly accessible and maintained in private ownership by the future body corporate unless otherwise agreed by the Council.	The modified proposal features a foreshore plaza and site link to be dedicated to Council as per the original consent.
Lapsing of Approval A7 Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval, unless an application is submitted to carry out a project or development for which concept approval has been given.	Noted
Schedule 2 Part B - Modifications	
Mod 1 <u>Amended Foreshore Link</u> <u>B1A. The delivery of the foreshore link shall be split between Stage 1 and Stage 2 in accordance with the Response to Submissions prepared by City Plan Services for MP09_0216 MOD1 dated 29 April 2014</u> Schedule 2 Part B – Modification B1B is added by the insertion of the <u>bold and underlined</u> words / numbers as follows: <u>Maximum Building Height Stage A</u> <u>B1B The Concept Plan building envelope shall be amended so that a maximum of 10 storeys shall apply to the 24 storey element of Stage A, Church Street site. The following Concept Plan drawings shall be amended to demonstrate compliance with this modification and shall be submitted to, and approved by, the Secretary within 1 month of the date of this approval.</u> a) <u>PPR 001 Maximum Heights with Setbacks;</u> b) <u>PPR 002 Maximum Number of Storeys Above Ground Level (Finished) Plan; and</u> c) <u>Figure 18 Stage A.Building Envelope Control Diagrams</u>	The modified proposal features a foreshore plaza and site link to be dedicated to Council as per the original consent Not applicable to Stages 2 & 3.

Sustainable Travel Plan B2 Prior to issue of an Occupation Certificate for Stage 1 or prior to the submission of a Development Application for future stages (whichever occurs first), a Sustainable Travel Plan for the Concept Plan site shall be submitted to and approved by the Council. Options for provision of a Car Sharing Scheme for the site are to be explored and incorporated into the Sustainable Travel Plan as is a Parking Management Strategy.	Condition 16 of the original consent required the development to be carried out in accordance with Sustainable Travel Plan (Reference 20100099 Revision B).
Schedule 2 Part B – Modification B3 is deleted by the bold and struck through words / numbers as follows: Amended Maximum Number of Storeys Above Ground Level (Finished) Plan B3 The plan entitled Indicative Concept Plan Storeys Plan shall be amended to: (a) Change the title to “Maximum Number of Storeys Above Ground Level (Finished) Plan”, and The amended plan, demonstrating compliance with these modifications shall be submitted to, and approved by, the Secretary within 1 month of the date of this approval.	Noted
Schedule 3 Future Environmental Assessment Requirements	
Design Excellence 1. Future Development Application/s for Stage 5 (the signature building fronting Church Street) shall demonstrate design excellence in accordance with the Director General’s Design Excellence Guidelines.	Superseded by Mod 1 below.
<u>Mod 1</u> <u>Design Excellence</u> 1. Future Development Application/s for Stage 5 A (the signature building fronting Church Street) shall demonstrate design excellence in accordance with the Director General’s Design Excellence Guidelines. Schedule 3 – Future Environmental Assessment Requirement 1A is amended by the insertion of the bold and underlined words / numbers and deletion of the bold struck out words / numbers as follows Dwelling Cap	Not applicable to Stages 2 & 3.

1A. Future Development Applications shall provide for a total number of dwellings up to a maximum of 2,005 2,033 across the Concept Plan site (including Stage 1). Future Development Applications shall include a projected dwelling forecast for each remaining stage demonstrating that the total dwelling numbers will adhere to the dwelling cap.	The modified proposal seeks consent for 498 dwellings (additional 45 dwellings from original consent). The additional dwellings will result in a total of 1,989 dwellings. The proposal allows for a total of 45 dwellings for Stage A.
2. Future Development Applications shall demonstrate that the development achieves a high standard of architectural design incorporating a high level of modulation / articulation of the building and a range of high quality materials and finishes.	The modified proposal features a high standard of architectural design including articulation and is consistent with the Concept Approval including maximum RLs and basement footprint areas. Furthermore, the proposed layout and detailed design will provide an enhanced living environment to future residents.
Schedule 3 – Future Environmental Assessment Requirement 3A is amended by the deletion of the bold struck out words / numbers as follows: Maximum Storeys on Steeply Sloping Topography 3A. Future Development Applications shall satisfy the ‘Maximum Number of Storeys Above Ground Level (Finished) Plan’. An exception to the maximum storey height may be given to buildings within Stages 2 and 3 on steeply sloping topography (being at the locations indicated on drawing S-001/B not including the area shown within Stage 4) where it can be demonstrated that: a) the overall building height satisfies the maximum permitted RL; b) no more than 1 additional storey is provided; c) an acceptable level of amenity can be achieved for any additional apartment(s) provided in accordance with the requirements of Future Environmental Assessment Requirement 21; and d) the additional storey is required to appropriately activate the ground level.	The development is consistent with the maximum building height RLs
Built Form 3. Notwithstanding the approved maximum building heights in RL, future Development Applications shall demonstrate that: (a) buildings along Constitution Road are a maximum of 5 storeys; and (b) the southern building element of Stage 7 is a maximum of 5 storeys.	Superseded by Mod 1 below.
<u>Mod 1</u> <u>Built form</u>	

3. Notwithstanding the approved maximum building heights in RL, future Development Applications shall demonstrate that: (a) buildings along Constitution Road are a maximum of 5 storeys, with the exception of the element of Stage 4 located on the corner of Constitution Road and Belmore Street (as shown on PPR 002-B), which is permitted to a maximum of 6 storeys;	Not applicable to Stages 2 & 3.
4. Future Development Applications shall ensure that basement parking levels do not exceed 1 metre above ground level (finished) and are located below the building footprint and do not encroach into street setback areas.	Superseded by Mod 1 below.
Mod 1 4. Future Development Applications shall ensure that basement parking levels do not exceed 1 metre above ground level (finished) and are located below the building footprint (with the exception of basements connecting Stages 2 and 3 and Stages 4 and 5) without encroachment into street setback areas.	Maximum projection of basement levels around ground level are approximately 1 metre as per the original consent and do not encroach into setback areas.
5. Future Development Applications shall demonstrate an appropriate interface with surrounding streets and public domain areas at pedestrian level, and an appropriate design treatment to provide an adequate level of privacy to ground level apartments.	Public domain plans have been submitted with the proposal. As per the original consent privacy screens are required to ensure an adequate level of privacy can be obtained.
6. Future Development Application/s for Stage 6 shall provide the following minimum setbacks to the south-western boundary (common boundary with 12 Rothesay Avenue): (a) 6 metres up to 4 storeys; and (b) 9 metres above 4 storeys.	Not applicable to Stages 2 & 3.
Mod 1 6. Future Development Application/s for Stage 3 shall provide the following minimum setbacks to the south-western boundary (common boundary with 12 Rothesay Avenue): (a) 6 metres up to 4 storeys; and (b) 9 metres above 4 storeys.	Stage 3 is setback from 12 Rothesay Avenue in accordance with this condition.
7. Future Development Application/s for Stage 5 shall provide the following minimum setbacks to Parsonage and Wells Streets: (a) Podium – 4 metres (b) Tower – 5 metres	Superseded by Mod 1 below.
Mod 1 7. Future Development Application/s for Stage A shall provide the following setbacks to Parsonage and Wells Streets: (a) Podium – 4 metres (b) Tower – 5 metres	Not applicable to Stages 2 & 3.

8. Future Development Application/s for Stage 6 shall provide a minimum one metre setback to the existing Council owned pedestrian access way along the north-western boundary.	Superseded by Mod 1 below.
Mod 1 8. Future Development Application/s for Stage 3 shall provide a minimum one metre setback to the existing Council owned pedestrian access way along the north-western boundary.	Stage 3 is setback in accordance with this condition.
9. Future Development Application/s for Stage 9 shall provide a minimum 4 metre building setback to the single storey building fronting Bowden Street. Eaves, pergolas, outdoor seating areas or other unenclosed structures are permitted to encroach into the setback providing that the design does not result in unacceptable impacts to the streetscape or view lines.	Not applicable to Stages 2 & 3.
10. Future Development Applications shall provide for utility infrastructure, including substations, within the building footprint, wherever possible. If this is not possible, infrastructure shall be located outside of the public domain and appropriately screened.	The development proposes 2 substations as annotated on the proposed plans as per the original consent.
Landscaping 11. Future Development Applications shall include detailed landscape plans for public and private open space areas, street setbacks areas and for the landscape treatment of all adjoining public domain areas and road reserves in accordance with the approved Public Domain Plan.	The modified landscape plans prepared by Black Beetle demonstrate proposed plantings within the site. As per the original consent the modified proposal will be subject to a number of conditions including replacement plantings, deep soils areas and associated stormwater management.
Public Domain 12. Future Development Applications shall provide the detailed design for the upgrade of all road reserves adjacent to the development to the centre line of the carriageway, including landscaping, street trees, accessible pedestrian pathways, street lighting, cycle ways on Constitution Road and Nancarrow Avenue, and any other necessary infrastructure in accordance with the approved Public Domain Plan. Where the detailed design necessitates an increase in the width of the road reserve, building setbacks are to be increased to retain the approved setback to the road reserve alignment. The road reserve works are to be completed by the proponent prior to occupation of each stage.	Noted. Details required by condition as per original consent
Cycle Facilities 13. Future Development Applications shall provide bicycle parking at the minimum rate of 1 space per 10 car parking spaces.	The modified proposal includes 64 bicycle spaces in accordance with 1 space per 10 parking spaces.

14. Future Development Applications shall demonstrate appropriate 'end of trip facilities' for cyclists within all non-residential developments in accordance with Council's requirements.	End of trip facilities are not considered warranted for this application.
Open Space/Public Access 15. Future Development Applications shall include detailed landscape plans for the embellishment of publicly accessible open space areas. These areas shall include high quality landscaping and paved areas and a variety of recreation facilities which may include BBQs, seating, water features, grassed areas, paths, shade trees, bicycle racks and exercise equipment/games.	The modified landscape plans prepared by Black Beetle demonstrate the embellishment of public open space areas within the site.
Mod 1 15A. The contiguous open space required in Modification B1(b) shall be completed, delivered and handed over to Council prior to the issue of the first Occupation Certificate for Stage 3. The land is to be dedicated, at no cost, to Council. Arrangements for the dedication shall be finalised before the issue of the Occupation Certificate for Stage 3. If Council does not accept the dedication, the land shall provide access to the public and be in private ownership by the relevant body corporate and appropriately maintained.	Noted. Details required by condition prior to the release of any Occupation Certificate as per original consent.
Foreshore Link Easement for Public Access 15B Prior to the issue of an Occupation Certificate for Stage 2 an easement shall be registered over the foreshore link, which is located between Stage 1 and Stage 2 (in favour of Council)	Noted. Details required by condition prior to the release of any Occupation Certificate as per original consent.
16. Future Development Applications shall include detailed landscape plans which demonstrate accessible paths of travel for all persons for at least two of the north-south routes between Constitution Road and the Foreshore with one of the routes including the Lower Riparian linear park and a second path either along the Central Spine or the public pathway associated with Stage 1. Landscape plans will also include the detailed design of at least 1 north-south cycle path linking Constitution Road through the site to the existing foreshore cycleway.	The modified landscape plans prepared by Black Beetle demonstrate retain north-south pedestrian pathways to provide connectivity to the foreshore as original approved.
17. Future Development Applications shall clearly set an appropriate legal mechanism for creating rights of public access to all publicly accessible areas of open space, drainage reserves and through site links, with the relevant instrument/s to be executed prior to the issue of the occupation certificate.	The applicant proposes that public rights of access are to be created through dedicated easements as per the original consent.
Community Facilities 18. Future Development Application/s for the Stage 5 development shall include, at no cost to Council, an appropriate community space within the development on the ground floor level with street frontage, which can be	Superseded by Mod 1 below.

used by Council or nominated community organisation(s) for community purposes. a. The amount and configuration of floorspace should be designed in consultation with Council or a Council nominated community organisation(s). Any dispute in the quantum of floorspace to be provided should be referred to the Director-General, whose decision shall be final. b. The designated community floor space must not be used for any other commercial, retail or residential use unless Council decides not to accept the designated floorspace. c. The provision of the community floorspace is in addition to Council's Section 94 Contributions for future development.	
Mod 1 Community Facilities 18. Any future Development Application/s for the 1000th dwelling Stage 5 development shall include, at no cost to Council, the delivery of an appropriate community space within the development, which can be used by Council or for community purposes and related uses. a) The community facility must be a minimum of 1,000m² in area and be primarily located on ground level. The configuration of floorspace should be designed in consultation with Council or Council nominated community organisation(s). b) The primary use of the designated community floor space must be for community uses. A range of other activities, such as private functions, community markets and garage sales, may be undertaken within the community facility provided that they are subsidiary to the core community function. c) The designated community floor space must not be used for any other commercial, retail or residential use unless Council decides not to accept the designed floorspace. d) The provision of community floorspace is in addition to Council's Section 94 Contributions for the development. e) The facility to be delivered is to be located around the contiguous central public open space area in either Stage 2 or 3.	The modified proposal features a 1,058m² community space at upper basement level within Stage 3. The space features contiguous access from adjoining public open space and has been designed to the satisfaction of Council's Officers.
Public Art 19. Future Development Applications shall provide the detailed design of public art in locations throughout open space areas generally in accordance with the Public Art Strategy submitted with the PPR.	A Public Art Plan is required by condition as per the original consent.
20. Future Development Application/s for Stage 3 shall include a Arts and Cultural Plan developed by a professional public artist including consideration of: (a) materials to be used, with particular attention to durability; (b) location and dimension of artwork; (c) public art themes to respond to site history and or social, cultural or natural elements; (d) integration into the site and surrounds; (e) budget and funding; and (f) Council's Public Art Guide for Developers.	Superseded by Mod 1 below.
Mod 1 Public Art 20. Future Development Application/s for Stage 2 shall include a Arts and Cultural Plan developed by a professional public artist including consideration of: (a) materials to be used, with particular attention to durability; (b) location and dimension of artwork;	As previously stated a Public Art Plan is required by condition as per the original consent.

(c) public art themes to respond to site history and or social, cultural or natural elements; (d) integration into the site and surrounds; (e) budget and funding; and (f) Council's Public Art Guide for Developers.	.
Residential Amenity 21. Future Development Applications shall demonstrate compliance with the provisions of the State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Residential Flat Design Code 2002 (RFDC).	Superseded by Mod 2 below.
Schedule 3 – Future Environmental Assessment Requirement 21 is amended by the insertion of the bold and underlined words / numbers and deletion of the bold struck out words / numbers as follows: 21. Future Development Applications shall demonstrate compliance with the provisions of the <i>State Environmental Planning Policy 65 – Design Quality of Residential Flat Apartment Development</i> (SEPP 65) and the accompanying Residential Flat Design Code 2002 (RFDC) Apartment Design Guide (ADG), except where modified below: In particular, future application/s shall demonstrate that: (a) a minimum of 60% of apartments within each stage are capable of being cross ventilated; and (b) a minimum of 70% of apartments within each stage receive a minimum of 2 hours solar access to living areas and balconies mid winter; and (c) where less than 70% of apartments achieve 2 hours of solar access in mid winter, these apartments (beyond the first 30%) shall be designed to provide improved amenity by: - including extensive glazing (minimum 70% of the external façade) to living rooms; - permitting cross-ventilation specifically to those apartments; and - exceeding RFDC ADG guidelines by at least 20% in at least one both of the following areas: - increased floor to ceiling height; and - increased minimum apartment areas, being greater than 50sqm for 1 bedroom, 70sqm for 2 bedroom and 95sqm for 3 bedroom apartments. (d) a minimum of 25% of open space area of the site is deep soil zone (e) the proposed landscaped areas provide sufficient deep soil in accordance with the RFDC ADG.	See discussion in Section 10.4 of this report.
ESD 22. Future Development Applications shall demonstrate the incorporation of ESD principles in the design, construction and ongoing operation phases of the development, in accordance with the base targets within ESD Guidelines Report prepared by Ecospecifier Consulting dated October 2010. Where no base target is provided within this report, the development must comply with the stretch target.	Superseded by Mod 1 below.
Mod 1 ESD 22. Future Development Applications shall demonstrate the incorporation of ESD principles in the design, construction and ongoing operation phases	An ESD letter provided by Integreco for the

of the development, in accordance with the base targets within ESD Guidelines Report prepared by Ecospecifier Consulting dated October 2010. Where no base target is provided within this report, the development should strive to achieve the stretch target (where relevant and feasible). In accordance with the EnviroDevelopment philosophy, four of the categories will be targeted to show 'industry best practice'. Where the categories of water and energy are applied, BASIX will be used to test 'industry best practice' for water and energy, which will be treated as 10% better than the BASIX pass mark.	original consent stated that the development will commit to achieve 'industry best practice' for water and energy.
Car Parking 23. Future Development Applications shall provide on-site car parking in accordance with Council's relevant Development Control Plan. Provision shall also be made for adequate loading and unloading facilities for service vehicles, suitably sized and designed for the proposed use.	Superseded by Mod 1 below.
Mod 1 Car Parking 23. Future Development Applications shall provide on-site car parking in accordance with Council's relevant Development Control Plan, up to a maximum of 2,976 spaces across the Concept Plan site. Future Development Applications shall provide: (a) a car parking rate which relates to the site-wide car parking provision and demonstrates that car parking may be provided for future stages within the total car parking figure of 2,976; and (b) a projected car parking forecast for each remaining stage demonstrating that the total car parking provision can be adhered to. Provision shall also be made for adequate loading and unloading facilities for service vehicles, suitably sized and design for the proposed use.	33 additional onsite car spaces are proposed. This will result in a total of 2,637 onsite parking spaces which provides for 339 car spaces for the remaining Stage A.
Road Infrastructure and Road Reserve Upgrades 24. Future Development Application/s for Stage 2 shall include the following infrastructure works: (a) Nancarrow Avenue extension; (b) Nancarrow Avenue Local Area Traffic Management (LATM) measures and all road reserve upgrades including associated pedestrian footpaths and cycleways; (c) implementation of left-in/left-out arrangement at Belmore Street/Hamilton Crescent intersection; (d) Underdale Lane Local Area Traffic Management (LATM) measures; (e) installation of a pedestrian crossing facility at Bowden Street/Nancarrow Avenue; and (f) installation of roundabout at Belmore Street/Rothesay Avenue. The detailed design is to be prepared by a suitably qualified engineer in accordance with Council's requirements and to be submitted to Council for approval before the lodgement of any future development application for Stage 2. All works must be completed by the proponent prior to the issue of the occupation certificate for Stage 2.	Superseded by Mod 1 below.
Mod 1 24. Future Development Application/s for Stage 4 shall include the following Infrastructure works: (a) Nancarrow Avenue extension; (b) Nancarrow Avenue Area Traffic Management (LATM) measures and	Not applicable to Stages 2 & 3.

road reserve upgrades including associated pedestrian footpaths and cycleways; (c) implementation of left-in/left-out arrangement at Belmore Street/Hamilton Crescent intersection; The detailed design is to be prepared by a suitably qualified engineer in accordance with Council's requirements and to be approved by Council before the <u>issue of the first Occupation Certificate for Stage 1.</u> All works must be completed by the proponent prior to the issue of the occupation certificate for Stage-4.	
Mod 1 Road and Pedestrian Infrastructure Upgrades 24A. Future Development Application/s for Stage 2 shall include the following Infrastructure works: (a) installation of a temporary east/west pedestrian link, which connects the stairway at the northern end of the foreshore link between Stages 1 and 2 to Nancarrow Avenue along the northern boundary of Stage 2. The pedestrian link shall provide access to residents the public on a 24 hour basis and maintained until the provision of the Nancarrow Avenue extension (note: this temporary pedestrian access is not a public right of way access). (b) Underdale Lane Local Area Traffic Management (LATM) measures; (c) installation of a pedestrian crossing facility at Bowden Street / Nancarrow Avenue; and (d) installation of roundabout at Belmore Street / Rothesay Avenue. The detailed design is to be prepared be a suitably qualified engineer in accordance with Council's requirements and to be submitted to Council's for approval before the lodgement of any future development application for Stage 2. All works must be completed by the proponent prior to the issue of the occupation certificate for Stage 2.	No alteration to original consent which required these public infrastructure works by way of Condition 37.
25. Future Development Application/s for the fourth stage of development shall provide the detailed design for the implementation of left-in/left-out arrangement at Belmore Street/ Yerong Street intersection. The works are to be completed prior to issue of the first occupation certificate of any building of this stage.	Superseded by Mod 1 below.
Mod 1 YerongStreet/Belmore Street Intersection Upgrade Future Development Applications for the fourth stage of development <u>containing the 800th dwelling</u> shall provide the detailed design for the implementation of the left-in/left-out arrangement at Belmore Street/Yerong Street intersection. The works are to be completed prior to issue of the first occupation certificate of any building of this stage.	Not applicable to Stages 2 & 3.
Schedule 3 – Future Environmental Assessment Requirement 26 is amended by the insertion of the <u>bold and underlined</u> words / numbers and deletion of the bold struck out words / numbers as follows: Roads and Maritime Services Requirements	A traffic study prepared by Road Delay Solutions has been submitted with the

26. Future Development Application/s for each stage of development following the first two stages shall include a traffic study which includes figures on the current number of vehicles and pedestrians at the Railway Road pedestrian crossing at Meadowbank Station and at the Constitution Road / Bowden Street intersection. The traffic study shall be provided for: a) Each stage of development following the first two stages; and b) Any Section 96 application(s) relating to the provision of additional dwellings within Stage 2 and 3 that are a result of approved amendments within modification application MP09 0216 MOD2. The traffic study is to be carried out to the RMS's and Council's satisfaction and shall model the impact of the anticipated increase in vehicle and pedestrian traffic for that stage. Where the study reveals that RMS warrants would be met for the provision of signalisation at either of these locations, concept design of the upgrade of the intersection to Council's and RMS's satisfaction is to be included with the Development Application and the works are to be completed by the proponent prior to the issue of first occupation certificate of any building of that stage.	application which notes that the proposed modification will result in 9 additional vehicular movements within peak periods. As such the modified proposal will have negligible impact on the network. Furthermore, the report concludes that the modification does not require traffic signalisation for this particular stage. It is noted that it was established by Roads Delay Solutions that signalisation of Bowden Street and Constitution Road was required for Stages 8 and 9. This was subsequently required by condition relating to Development Consent LDA2015/0031 for Stage 8 and 9.
27. Future application/s for Stage 5 shall demonstrate that the RMS requirements have been met in relation to access to RMS infrastructure on the adjoining land, including retention of existing access, parking and turning area for maintenance vehicles.	Superseded by Mod 1 below.
Mod 1 27. Future application/s for Stage 5A shall demonstrate that the RMS requirements have been met in relation to access to RMS infrastructure on the adjoining land, including retention of existing access, parking and turning area for maintenance vehicles.	Not applicable to Stages 2 & 3.
Site Specific Sustainable Travel Plan 28. Future Development Applications for each stage shall include a site specific sustainable travel plan incorporating a workplace travel plan and/or travel access guide. The travel plan will be in accordance with the Concept Plan Sustainable Travel Plan required by Modification B2.	A sustainable transport plan prepared by Road Solutions was submitted with the originally approved application.
Heritage 29. Future Development Application/s for Stage 8 involving the demolition of the existing heritage item at 37 Nancarrow Avenue shall include: (a) a detailed heritage assessment of the site which includes a professionally written history of the site; (b) a full photographic record; and (c) an interpretation strategy to display the heritage values of the existing building on the newly developed site.	Superseded by Mod 1 below.
Mod 1	Not applicable to

29. Future Development Application/s for Stage 8 6 involving the demolition of the existing heritage item at 37 Nancarrow Avenue shall include: (a) a detailed heritage assessment of the site which includes a professionally written history of the site; (b) a full photographic record; and (c) an interpretation strategy to display the heritage values of the existing building on the newly developed site.	Stages 2 & 3.
30. Future Development Application/s for Stage 5 shall include a Statement of Heritage Impact providing an assessment of the impact of the development on the adjoining heritage listed Church Street Bridge. Applications are to demonstrate that the design of the building takes into account relevant recommendations of the heritage assessment.	Superseded by Mod 1 below.
Mod 1 30. Future Development Application/s for Stage 5 A shall include a Statement of Heritage Impact providing an assessment of the impact of the development on the adjoining heritage listed Church Street Bridge. Applications are to demonstrate that the design of the building takes into account relevant recommendations of the heritage assessment.	Not applicable to Stages 2 & 3.
Section 94 Contributions 31. Future Development Applications shall be required to pay developer contributions to the Council towards the provision or improvement of public amenities and services. The amount of the contribution shall be determined by Council in accordance with the requirements of the Contributions Plan current at the time of approval.	The S94 contributions have been updated having regard to this application.
Noise and Vibration 32. Future Development Application/s for Stage 5 shall provide an acoustic assessment which demonstrates that the internal residential amenity of the proposed apartments is not unduly affected by the noise and vibration impacts from Church Street, to comply with the requirements of Clause 102 of State Environmental Planning Policy (Infrastructure) 2007 and the Department of Planning's 'Development Near Rail Corridors and Busy Roads – Interim Guidelines'. NSW Government Department of Planning & Infrastructure Concept Plan for Shepherds Bay Page 11 Adaptable Housing	Superseded by Mod 1 below
Mod 1 Noise and Vibration 32. Future Development Application/s for Stage 5 A shall provide an acoustic assessment which demonstrates that the internal residential amenity of the proposed apartments is not unduly affected by the noise and vibration impacts from Church Street, to comply with the requirements of Clause 102 of State Environmental Planning Policy (Infrastructure) 2007 and the Department of Planning's 'Development Near Rail Corridors and Busy Roads – Interim Guidelines'.	Not applicable to Stages 2 & 3.
33. Future Development Applications shall provide a minimum of 10% of apartments as adaptable housing in accordance with Australian Standard	An access report prepared by Design

4229-1995.	Confidence identifies that the modified development proposes a total of 49 adaptable units in accordance with this requirement.
Stormwater Infrastructure Upgrades 34. Future Development Applications for Stage 7, 8, 9 or 10 (whichever occurs first) shall provide the detailed design of the following infrastructure works: (a) the piped drainage system and overland flow path from Ann Thorn Park to Parramatta River; and (b) works to eliminate the risk of embankment failure of Constitution Road. The works will be required to be completed by the proponent prior to construction commencing for any residential buildings within these stages.	Superseded by Mod 1 below.
Stormwater Infrastructure Upgrades Mod 1 34. Future Development Applications for Stage 6, 7, 8 or 9 (whichever occurs first) shall provide the detailed design of the following infrastructure works: (a) the piped drainage system and overland flow path from Ann Thorn Park to Parramatta River; and (b) works to eliminate the risk of embankment failure of Constitution Road. The works will be required to be completed by the proponent prior to construction commencing for any residential buildings within these stages.	Not applicable to Stages 2 & 3.
Flooding and Stormwater 35. Future Development Applications for each stage of the development shall include flood assessments to determine the minimum floor levels, any required mitigation measures and evacuation strategy required.	Note – Original consent contained a condition which required a stormwater management – works as executed plan in accordance with Council requirements.
36. Future Development Applications for each stage of the development shall include a Stormwater Management Plan in accordance with Council's requirements.	See response to condition 35.
Sydney Water Requirements 37. Future Development Applications shall address Sydney Water's requirements in relation to: (a) required amplification works to existing drinking water mains; (b) required amplification works to the wastewater system; (c) approval for discharge of trade wastewater (where necessary); and (d) application for Section 73 certificates as necessary.	Note – Original consent contained documentation from Greg Houston Plumbing comprising a letter dated 27 November 2014 confirming engagement to lodge all applications to Sydney Water.
Contamination, Acid Sulphate Soils and Salinity	Note – Original consent

38. Future Development Applications shall include a detailed contamination assessment (involving sampling and testing of soil) including an assessment of the presence of acid sulphate soils and salinity.	was issued on the findings of the Remedial Action Plan (incorporating groundwater testing) prepared by Environmental Investigations Australia.
39. A groundwater assessment (involving sampling and testing of groundwater) shall be undertaken across the entire Concept Plan prior to the first Development Application being lodged for Stage 2 or any other stage of the development.	See response to condition 38.
40. Future Development Applications where necessary shall include a targeted groundwater assessment for the specific stage (based on the recommendations of the groundwater assessment undertaken for the entire Concept Plan).	See response to condition 39.

10.3 State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 requires the consideration of the contamination of the land and its suitability for its intended use.

This issue has been considered thoroughly as part of the assessment process for both the concept approval and the Stage 2 and 3 DA. The original concept application was supported by a Preliminary Screen Contamination Assessment and a Preliminary Geotechnical and Groundwater Assessment dated October 2010 prepared by Douglas Partners. This report did not raise any significant concerns regarding the proposed residential development of the site.

A groundwater investigation study prepared by Environmental Investigations dated 29 January 2014 was submitted with the current application. The study concludes on page 56 that:

“...it is considered that there is a low risk of widespread groundwater contamination within the Shepherds Bay Urban Renewal Project. It is also considered that any groundwater impact is unlikely to prevent the redevelopment of the sites for residential and open space development.”

The remediation of the site is addressed by the conditions of consent associated with the bulk excavation of the site LDA2014/0531.

10.4 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Buildings

To support this proposed modification the applicant has provided a Design Report prepared by Turner Architects. This report assesses the proposed new and modified

apartments against the amenity benchmarks established by Condition 21 of the modified concept approval. Condition 21 is set out below:

*21. Future Development Applications shall demonstrate compliance with the provisions of the State Environmental Planning Policy 65 – Design Quality of Residential ~~Flat~~ **Apartment** Development (SEPP 65) and the accompanying ~~Residential Flat Design Code 2002 (RFDC)~~ **Apartment Design Guide (ADG)**, except where modified below:*

In particular, future application/s shall demonstrate that:

- (a) a minimum of 60% of apartments within each stage are capable of being cross ventilated; and*
- (b) a minimum of 70% of apartments within each stage receive a minimum of 2 hours solar access to living areas and balconies mid winter; and*
- (c) where less than 70% of apartments achieve 2 hours of solar access in mid winter, these apartments (beyond the first 30%) shall be designed to provide improved amenity by:*
 - including extensive glazing (minimum 70% of the external façade) to living rooms;*
 - permitting cross-ventilation specifically to those apartments; and*
 - exceeding ~~RFDC ADG~~ guidelines by at least 20% in at least one both of the following areas:*
 - increased floor to ceiling height; and*
 - increased minimum apartment areas, being greater than 50sqm for 1 bedroom, 70sqm for 2 bedroom and 95sqm for 3 bedroom apartments.*
- (d) a minimum of 25% of open space area of the site is deep soil zone*
- (e) the proposed landscaped areas provide sufficient deep soil in accordance with the ~~RFDC-ADG~~*

In response to the above, the applicant has provided an analysis of the modified proposal relative to the ADG.

The assessment notes that ventilation levels outlined in Condition 21(c), as required by the ADG would reduce to 64% for Stage 2 (relative to 70% as per the original consent) whilst Stage 3 increase to 71% (relative to 70% as per the original consent). It is noted that the original consent relied on the use of vertical circulation shafts to provide a compliant level natural / cross ventilation in accordance with the RFDC. However, reliance on vertical circulation shafts is not consistent with the provisions of the ADG. The ADG also does not calculate dwellings above level 9 to be calculated for natural ventilation, noting that the RFDC incorporated all levels. Further complicating matters, the approved building is substantially constructed. In light of the above the applicant has argued that cross ventilation for the entire building should be applied by way of the ventilation methods employed for the original approval i.e. vertical circulation shafts.

A comparison of the modified proposal prepared by City Plan Services (dated 27 June 2017) are provided below:

TABLE 2: ASSESSMENT OF ENTIRE MODIFIED BUILDING

Control	Proposed for Stage 2	Proposed for Stage 3	Compliance
Condition 21(a) Min 60% of dwellings to be cross ventilated in accordance with ADG	69.8% are cross ventilated relying on methods used in the original DA.	80.51% are cross ventilated relying on methods used in the original DA.	The ventilation methods used as part of the original DA, in particular the vertical ventilation shafts, were compliant during the original DA according to the RFDC. They no longer are according to the ADG. Given they were

Control	Proposed for Stage 2	Proposed for Stage 3	Compliance
			accepted in the original DA, we submit that they remain acceptable. It is noted, however, that Stage 3 complies.
Condition 21(b) Min 70% of dwellings receive 2 hours solar access in mid-winter to living rooms and balconies	33.2% of dwellings receive 2 hours solar access in mid-winter to their living rooms and balconies.	48.6% of dwellings receive 2 hours solar access in mid-winter to their living rooms and balconies.	No. However, the proposal achieves substantial compliance with the higher amenity requirements of condition 21(c), as demonstrated below.
Condition 21(c) Given non-compliance with 21(b) above, min 38.8% of dwellings for Stage 2 and 23.4% of dwellings for Stage 3 shall be provided with 70% of their façade as glazing. That is, these percentages are required to achieve the 70% of Condition 21(b) i.e. $38.8\% + 33.2\% = 70\%$ for Stage 2 and $23.4\% + 48.6\%$ for Stage 3.	100% of the proposed apartments have living rooms with facades made up of at least 70% glazing.	100% of the proposed apartments have living rooms with facades made up of at least 70% glazing.	Yes. It is evident that the proposal significantly exceeds the minimum requirements for glazing. This level of glazing will contribute significantly to providing a high level of internal amenity, despite non-compliance with Condition 21(b).
Condition 21(c) Given non-compliance with 21(b) above, min 38.8% of dwellings for Stage 2 and 23.4% of dwellings for Stage 3 shall achieve cross ventilation. That is, these percentages are required to achieve the 70% of Condition 21(b) i.e. $38.8\% + 33.2\% = 70\%$ for	69.8% of the proposed apartments achieve cross ventilation.	80.51% of the proposed apartments achieve cross ventilation.	Yes. It is evident that the proposal exceeds the minimum requirements for ventilation. This level of ventilation will contribute significantly to providing a high level of internal amenity, despite non-compliance with Condition 21(b).

Control	Proposed for Stage 2	Proposed for Stage 3	Compliance
Stage 2 and 23.4% + 46.6% for Stage 3.			
Condition 21(c) Given non-compliance with 21(b) above, min 36.8% of dwellings for Stage 2 and 23.4% of dwellings for Stage 3 are provided with floor to ceiling clearances 20% greater than recommended by the ADG. That is, these percentages are required to achieve the 70% of Condition 21(b) i.e. 36.8% + 33.2% = 70% for Stage 2 and 23.4% + 46.6% for Stage 3.	58.4% of apartments for Stage 2 are provided with floor to ceiling clearances 20% greater than recommended by the ADG.	47.88% of Stage 3 are provided with floor to ceiling clearances 20% greater than recommended by the ADG.	Yes. It is evident that the proposal exceeds the minimum requirements for floor to ceiling clearances. This quantity will contribute significantly to providing a high level of internal amenity, despite non-compliance with Condition 21(b).
Condition 21(c) Given non-compliance with 21(b) above, min 36.8% of dwellings for Stage 2 and 23.4% of dwellings for Stage 3 are provided with dwelling areas 20% greater than minimum areas specified by the ADG. That is, these percentages are required to achieve the 70% of Condition 21(b) i.e. 36.8% + 33.2% = 70% for Stage 2 and 23.4% + 46.6% for Stage 3.	59.54% of apartments for Stage 2 are provided with dwelling sizes 20% greater than recommended by the ADG.	56.36% of apartments for Stage 3 are provided with dwelling sizes 20% greater than recommended by the ADG.	Yes. It is evident that the proposal exceeds, and in the case of those dwellings in Stage 3, significantly exceeds the minimum requirements for larger dwelling sizes. Such dwelling sizes will contribute significantly to providing a high level of internal amenity, despite non-compliance with Condition 21(b).

Table 1: Assessment of entire modified building relative to SEPP65 Enhanced Amenity Schedule
(Source: City Plan Services)

Having reviewed the abovementioned extracts, the modified plans and supporting documentation, it is noted that cumulatively, the modification of both Stage 2 and 3 results in 67% of all dwellings satisfying the now applicable ADG in accordance with Condition 21. The enhanced amenity provisions are to be assessed per stage as defined within Condition 21(c). When applying the provisions per stage the enhanced amenity calculation reduces to 64% for Stage 2 whilst Stage 3 increases to 71%.

Whilst it is noted that the modified proposal fails to achieve overall compliance with enhanced amenity provisions for Stage 2, 100% of apartments (Stage 2 and 3) which fail to achieve 2 hours of solar access in mid-winter, incorporate extensive glazing. Furthermore, 58% (Stage 2) to 47% (Stage 3) of the abovementioned apartments feature increased floor to ceiling height and 59% (Stage 2) to 56% (Stage 3) feature increased apartment areas as prescribed by Condition 21(c).

With regard to Condition 21(d) the modified proposal provides a total of 22% of the open space area as deep soil. Whilst this is below the minimum requirement of 25%, if areas below the minimum dimension of 6m are incorporated within the calculation this would total 47% of the open space area. Furthermore, the modified proposal provides 1203.25m² of deep soil (10% of site area) in accordance with the ADG.

In light of the above, it is considered that the proposed modification is considered to meet the intent of Condition 21 to provide suitable residential amenity, noting the variants in cross ventilation controls between the RFDC and ADG and the physical constraints of the modified building envelope as approved by the PAC.

The amended development has been assessed in accordance with the design principles in SEPP 65. As the original DA was based on the ten design principles rather than the current 9 design principles, the Section 96 has also been assessed under the 10 design principles.

SEPP 65 Design Principle	Comment	Complies
Principle 1: Context Good design responds and contributes to its context. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies.	The modified is consistent with the desired future character as identified within the concept approval for the site.	Yes
Principle 2: Scale Good design provides an appropriate scale	The modified proposal is consistent	Yes

in terms of the bulk and height that suits the scale of the street and surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and scale needs to achieve the scale identified for the desired future character of the area.	with the proposed building envelopes for both Stage 2 and 3.	
Principle 3: Built form Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	The development is consistent with the building type envisaged as part of the site as a whole.	Yes
Principle 4: Density Good design has a density appropriate for the site and its context, in terms of floor space yields (numbers of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition are consistent with the desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.	The proposal is consistent with the building envelope and maximum heights identified within the Modified Concept approval. It is noted that no FSR was specified for the site.	Yes
Principle 5: Resource, energy and water efficiency Good design makes efficient use of natural resources, energy and water throughout its life cycle, including construction.	The modified proposal achieves the applicable BASIX targets for water and energy efficiency and thermal comfort.	Yes
Principle 6: Landscape Good design recognises that together landscape and building operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.	The landscaping detail to both the privately accessible areas and communal areas has been updated to compliment the modified proposal. It is considered that landscaping is capable of being detailed to the satisfaction of Council by way of condition as per the original application.	Yes General compliance and capable of finalisation by way of conditions of consent.
Principle 7; Amenity Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy,	See discussion re Condition 21 of modified Concept Approval.	Yes

storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.		
Principle 8: Safety and security Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and a clear definition between public and private spaces.	The proposal features good design which enhances safety and security of the area by way of ground floor active frontages and residential apartments above providing passive surveillance.	Yes
Principle 9: Social dimensions and housing affordability Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.	The modified development will provide greater housing choice within the area thereby assisting to improve housing availability and affordability.	Yes
Principle 10: Aesthetics Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to the desirable elements of the existing streetscape, or, in precincts undergoing transition, contribute to the desired future character of the area.	The modified building design and associated materials respond to the former commercial and industrial history of the site whilst responding to the future character of the area.	Yes

10.5 Apartment Design Guide

The Section 96 has also been assessed against the other provisions of the ADG. The relevant matters are discussed below:

Design Criteria for relevant Objectives of Apartment Design Guide	Consistency with Objectives / Compliance with Design Criteria
Part 3 Siting the Development	
3D Communal & Public Open Space	
1. Communal open space has a minimum area equal to 25% of the site.	Non-compliance. The modified proposal provides a total of 22% of the open space area as deep soil. Whilst this is below the minimum requirement of 25%, if areas below the minimum dimension of 6m are incorporated within the calculation this would total 47% of the open space area. Furthermore, the modified proposal provides 1203.25m² of deep soil (10% of site area) consistent with the ADG.
3E Deep Soil Zones	
Deep soil zones for sites greater 1500m² are to meet the following minimum requirements: Minimum Dimension: 6m Percentage of site area: 7%	Yes 1203.25m² (10%)
3F Visual Privacy	
Minimum required separation distances from buildings to the side and rear boundaries are as follows: - Buildings up to 12m (4 storeys) - Habitable rooms 6m - Non-habitable rooms 3m - Buildings up to 25m (5-8 storeys) - Habitable rooms 9m Non-habitable rooms 4.5m	Yes The proposed development is consistent with the building envelopes and associated setbacks as identified within the Concept Approval. Building separation ranges between 18 and 22 metres
Part 4 Designing	
4A Solar & Daylight Access	
1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two (2) hours direct sunlight between 9:00am and 3:00pm at	Non-compliance – refer to discussion regarding Condition 21.

Design Criteria for relevant Objectives of Apartment Design Guide	Consistency with Objectives / Compliance with Design Criteria
mid winter in Sydney Metro Area and Newcastle and Wollongong LGAs	
4B Natural Ventilation	
1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	Non-compliance – refer to discussion regarding Condition 21.
4C Ceiling Heights	
- Retail: 3.3m - Residential - Habitable rooms 2.7m - Non-habitable 2.4m	Complies.
4D Apartment Size & Layout	
Apartments are required to have the following minimum internal areas: - Studio: 35m² - One (1) bedroom: 50m² - Two (2) bedroom: 70m² - Three (3) bedroom: 90m² Additional 5m² for second bathroom	Complies: - One (1) Bed 50m² - 61m² - Two (2) Bed 76m² - 86m² - Three (3) Bed 96m² - 138m²
4F Common Circulation & Spaces	
The maximum apartments off a circulation core on a single level is eight	Non-compliance Whilst it is noted that typically there are between 6 and 8 apartments per core this extends up to maximum of 11 as per the original consent.
4G Storage	
In addition to storage in kitchens, bathrooms and bedrooms, the following is provided: - Studio apartments: 4m³ - One (1) bedroom apartments: 6m³ - Two (2) bedroom apartments: 8m³ - Three (3)+ bedroom apartments: 10m³ At least 50% of the required storage is to be located within the apartment	Complies

10.6 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was prepared for the original approval of DA2015/0018 that identified that the proposed development achieved the minimum BASIX targets for building sustainability.

An amended Basix Certificate (581855M_03) dated 6 March 2017 identifies that the modified proposal achieves the minimum targets for building sustainability. Conditions will be imposed requiring compliance with the BASIX commitments detailed within the certificate.

10.7 Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

SEPP (Sydney Harbour Catchment) 2005 applies to the subject site and was considered in the assessment of the concept plan and subsequently the Stage 2 and 3 Development Application. The proposed modification does not have any particular relevance to the issues of the State policy that have not previously been considered.

10.8 State Environmental Planning Policy (Infrastructure) 2007

In accordance with Clause 104 (traffic generating development), the original development consent was previously referred to RMS for comment.

A traffic impact assessment prepared by Road Delay Solutions (dated March 2017) for the proposed modification identifies that the modified proposal will result in 9 additional vehicles in peak periods which would have a negligible impact on the network. As such, Council has determined that no additional consultation with RMS was required in this instance. Further details regarding traffic impacts are discussed within Section 8 of this report.

10.9 Ryde Local Environmental Plan 2014

The relevant local planning instrument is the Ryde Local Environmental Plan 2014. The assessment process for the Stage 2 and 3 under LDA2015/18 incorporated a comprehensive analysis relevant to the Ryde LEP2104. Details are as follows:

RLEP 2014	Comment	Complies
Zone B4 Mixed Use	The modified proposal comprises mixed uses including residential units, a café, retail unit, gymnasium and a community space to be dedicated to Council.	Yes
Clause 4.3 Height of Buildings	The development is consistent with the maximum RLs identified within the Concept Approval.	Yes
Clause 4.4 Floor Space Ratio	Concept Approval did not identify a maximum FSR for the site. As an alternative, a maximum dwelling cap of 2,005 was imposed across the entire Concept Plan site. This cap was amended in the Modified Concept Plan to 2033 dwellings.	Yes, the revised dwelling cap of 2,033 dwellings permits the additional 45 dwellings to be accommodated within Stage 2 and 3.
Clause 6.2 Earthworks	A construction management plan prepared by Upright Builders Pty Ltd has been submitted with the original application.	Yes – Subject to the conditions of the original consent
Clause 6.4 Stormwater Management	A concept stormwater plan prepared by Harris Pages and Associates has been submitted with the original application.	Yes – Subject to the conditions of the original consent

10.10 Ryde Development Control Plan 2014

The Assessment process for the Stage 2 and 3 under LDA2015/18 incorporated a comprehensive analysis of the Ryde DCP. Many of these requirements are not critical to the assessment of the proposed modification and therefore the following Table only makes comment on selected relevant DCP requirements.

RDCP 2014	Comment	Complies
4.1.1 Mixed-Use Development		
Mixed-use development will comprise either: a. a combination of medium and high density residential	Stage 2 and 3 of the overall development is predominately	Yes

development with compatible employment related activity; or b. compatible employment related activities including: i. restaurants and cafes; ii. small scale retail establishments such as convenience stores and news agencies up to 2000m²; iii. small commercial offices and studios such as real estate agencies offices; iv. professional suites such as doctors suites; and v. home offices.	residential with the inclusion of a café, retail unit and gymnasium. a small mixed use element. It is noted that the modified proposal features the provision of a community facility at upper basement level in accordance with the Concept Approval.	
4.1.2 Public Domain, Access and Pedestrian/ Cyclist Amenity		
a. The achievement of maximum heights and density is contingent on meeting the public domain provisions of this plan and all public domain items being provided by the proponent. b. New developments must be provided with a minimum of one barrier free access point to the main entry. c. Publicly accessible pedestrian and cycle ways must be provided through large sites. d. New pedestrians and cycleway access points, gradients and linkages are to be designed to be fully accessible by all. i. Shared pedestrian links, cycle ways, public roads and lanes are to be of a high standard and treated in a way which indicates their shared status. The selection of paving, street furniture, lighting, bollards, signage and paving should compliment the existing upgrade works to Shepherd's Bay (refer to the Ryde Public Domain Technical Manuel).	The proposal is consistent with the maximum heights and building envelopes identified within the Concept Approval. The proposed development provides barrier free (i.e.ramps) access to main building entries. Publicly assessable pathways and cycleways have been provided. Cycleway and pedestrian access points will be accessible by all. Pedestrian links, cycle paths, roads and lanes as outlined in the detailed public domain landscape plans are consistent with Public Domain Technical requirements.	Yes Yes Yes Yes Yes

4.1.4 Views and Vistas		
a. Panoramic views of Parramatta River are to be maintained from Faraday Park, Settlers Park, Anderson Park, and Helene Park.	The proposal is consistent with the Concept Approval in terms of building envelope and RLs for each of the buildings.	Yes
b. Development is to ensure that vistas towards Parramatta are maintained.	The impact of built form in terms of view loss was addressed within the Concept Approval.	Yes
c. Development must reflect the topography of the area taking into consideration views from the Rhodes Peninsula, Railway Bridge and Ryde Bridge.		
d. Maintain views for pedestrians and cyclists along the public open space to the Parramatta River.	The siting of Stage 2 and 3 will not adversely impact views along the public space to Parramatta River.	Yes
f. Maintain secondary views through the site from pedestrian and cycle links from Nancarrow Avenue to the Parramatta River.	Secondary views from Nancarrow Avenue towards Parramatta River will be retained.	Yes
4.1.5 Landscaping and Open Space		
a. All development proposals are to be accompanied by a Landscape Plan prepared by a qualified and suitably experienced landscape architect. This is to include an arborist's report on existing trees, and demonstrate how proposed landscaping will contribute to ecological sustainability. Management of construction impacts must also be addressed.	The original consent permitted the removal of 3 trees (2 Eucalyptus sideroxylon and 1 Melaleuca Styphellioides). An updated public domain landscape plan including replacement plantings has been prepared by Place Design.	Yes
b. Roof gardens are encouraged and must be considered in any landscaping plan.	The modified proposal does not include the provision of roof gardens as per the original approval. Many buildings in Meadowbank do not include roof gardens. Roof gardens have not been provided due to the Concept Plan restricting the overall height of the building and skylights have been provided to the apartments on the upper floor.	Yes
e. Provide adequate deep planting zones above car parking and other concrete or similar structures to allow sustainable planting.	The modified landscape plan prepared by Black Beetle provides adequate deep soil zones above the basement carpark and provides 22% of	Yes

	open space as deep soil.	
f. Provide at ground floor, where possible, open space for dwelling units and contiguous open garden areas to create common large landscaped space.	Each ground floor unit includes a private courtyard area in addition to communal open space provided centrally within the site.	Yes
g. Construction of roof areas of multi unit developments is to make provision for useable roof gardens.	The proposal does not include the provision of roof gardens.	Yes
h. Where appropriate, developments should incorporate landscaping (such as planter boxes) integrated into the upper levels of building to soften building form.	See above.	
4.2.1 Height		
a. The maximum building height is to comply with the heights shown in Ryde Local Environmental Plan 2014 Height of Buildings Map. Buildings must comply with the maximum number of stories shown in Figure 4.2.10.	The maximum building heights (RLs) including pop up areas are consistent with the Concept modification approval.	Yes
c. The ground floor height shall be 4m floor to floor regardless of use.	Ground floor to floor height of 3.2m to 3.5m has been proposed which is consistent with the concept approval. In addition the proposed community space features a floor to floor height of 3.6m.	Yes – floor to ceiling heights are in accordance with the enhanced amenity provisions of the Concept Approval.
e. Retail and commercial uses at ground floor are to have floor levels contiguous with finished footpath levels. On sloping sites the levels must be contiguous at entries.	The modified proposal features a café, retail unit and community facility with continuous access from the communal open space.	Yes
4.2.2 Setbacks		
a. Setbacks must be consistent with the setback map i. New development to have 4m setbacks ii. Development along the northern boundary of the Meadowbank area adjacent to R2 low density residential zones is to have 6m landscape.	The proposed setbacks are consistent with the concept approval.	Yes

4.2.3 Roof Form		
a. Buildings below RL 15 must have articulated roofs, as they will be viewed from buildings above. Articulated roofs refer to well-deigned roof zones with landscaping, useable areas and/or richly detailed roofs made of high quality materials.	The maximum RLs of the proposal exceed RL 15. Notwithstanding, the development features articulated roof forms.	N/A
b. The use of solar panels on roofs is encouraged where possible.	No solar panels have been proposed.	N/A
c. Pitched roofs of up to 30% are permitted for buildings that are 3 storeys or less.	The proposal is in excess of 3 storeys.	N/A
4.2.4 Building Facades and Articulation		
a. Building facades should be articulated within a 3 metre zone to provide entries, external balconies, porches, glazed balcony enclosures, terraces, verandahs, sun shading elements etc.	The building facades of the modified proposal incorporates articulated forms including balconies, use of materials and blades.	Yes
b. Penthouses should be set a minimum of 4 metre from any buildings façade.	Roof level apartments have been setback in accordance with the roof envelopes as per the modified Concept approval.	Yes
c. Articulate buildings to respond to orientation, views, breezes, privacy, views, acoustic requirements, street widths and relationship of the building to external garden spaces.	The proposed Stage 2 and 3 buildings are consistent with the modification approval. Given the U-shape layout of the buildings there are concerns regarding potential overlooking between internally facing units. As such Unit layout and corresponding external areas are orientated to respond to orientation, views, privacy etc.	Yes – subject to conditions of the original approval.
d. Articulate buildings vertically and horizontally: materials and building setbacks on the upper storeys are to be used to reduce the perceived bulk of buildings.	Articulation of the building incorporating both horizontal (slab edges, cladding, balustrades) and vertical forms.	Yes
e. Provide and denote entries along street frontages and public domain spaces where appropriate.	Each building features direct entry from the street.	Yes
f. Buildings are to address	Each building is situated parallel	Yes

streets, open spaces and the river foreshore. Street frontages are to be parallel with or aligned to the street alignment.	to adjoining streets and address both the street and open space areas.	
g. Provide balconies and terraces, particularly where buildings overlook public spaces.	Balconies and terrace are provided for all terraces.	Yes
4.2.5 Private and Communal Open Space		
a. Private open space with sunlight access, ventilation and privacy shall be provided for apartments in accordance with SEPP 65.	In accordance with condition 21 of the Mod 2 approval, enhanced SEPP 65 amenity conditions have been provided for the modified proposal.	Yes
b. No more than 50% of communal open space provided at ground level shall be paved or of other non-permeable materials;	An assessment has been prepared by Integreco Consulting.	Yes
4.2.6 Residential Amenity		
a. In considering compliance with SEPP 65, regard will be given to: i. limitations imposed by heritage items to be retained on the site; ii. sunlight access to adjoining balconies of living rooms; and iii. appropriate urban form, site orientation and other constraints.	As previously stated, in accordance with condition 21 of the Mod 2 approval, enhanced SEPP 65 amenity conditions have been provided due to building layout and fall of the site to the foreshore.	Yes
4.3.2 Energy Efficient Design		
a. Residential development must be designed in accordance with principle outlined in the Building Sustainability Index (BASIX).	A BASIX certificate has been prepared by Integreco has been submitted for the modified proposal.	Yes
4.4.2 Noise and Vibration Attenuation		
Residential a. New residential developments, including those within a mixed use building, are required to consider noise attenuation and acoustic treatment in their design. Particularly, the building layout, walls, windows, doors and roofs are to be designed and detailed to reduce intrusive noise levels.	An acoustic report has been prepared by DK Acoustics which concludes the proposal is acceptable subject to noise mitigation measures.	Yes

4.4 Parking Access and Loading		
a. All new buildings are required to provide on-site loading and loading facilities.	Council's Engineer has reviewed the proposed loading areas and has no object subject to conditions. It is noted that Council's Waste Officer has raised concern regarding reversing waste trucks internally within the site in terms of visibility.	Yes – subject to conditions
b. Loading docks shall be located in such a position that vehicles do not stand on any public road, footway, laneway or service road and vehicles entering and leaving the site move in a forward direction.	See above	
5.0 Precinct Specific Development controls		
5.3 Precinct 3 – Waterfront		
a. The impact of new buildings on views from the Parramatta River to the site and the treed ridgeline to the north are to be considered.	The development is in accordance with the building envelopes including view corridors established by the Concept approval. As such views from Parramatta River northward are considered satisfactory.	Yes
b. Development near the waterfront is to respond to and consider views from the Parramatta River.	The proposed built form is consistent with the building heights and envelopes identified with modified Concept Approval. As such views to the Parramatta River foreshore will be maintained.	Yes
c. Distances between buildings should take into account acoustic and privacy issues to protect the amenity for all residential units. Minimum distances should be in accordance with SEPP 65 principles.	The proposed buildings are setback 18-22m in accordance with the requirements.	Yes
d. Facades should be articulated within a zone of 3 metres and be built to street edge behind the required landscape setback.	The development features articulated facades to external elevations.	Yes
e. Maintain all existing mature trees that add to the high landscape quality of the area.	Tree removal forms part of the original concept approval. In addition 3 further trees are to be removed.	No – acceptable subject to conditions.

f. Enhance street planting along Bowden Street to facilitate the perception of a boulevard providing direct access to the Parramatta River.	The development site for Stage 2 and 3 does not adjoin Bowden Street.	NA
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10.11 Section 94 Development Contribution Plan 2007 (Amendment 2010)

The original development application required the applicant to pay a Section 94 contribution prior to the issue of any Occupation Certificate. A search of Council's records indicates that this contribution has not yet been paid. It is proposed to amend condition 101 from the original consent to reflect the contributions required under the modified application.

11 LIKELY IMPACTS OF THE DEVELOPMENT

11.1 Views

The proposed modification, although increasing the number of storeys within the buildings, remains consistent with the maximum building heights approved. This is also true for the building setbacks to neighbouring properties.

As such the degree of views available from dwellings within the site and from adjoining or nearby properties across the site is unchanged and therefore remains acceptable.

The development forms part of the staged redevelopment of Shepherds Bay and remains consistent with the built form and siting of the Concept Approval. As such it is considered that the proposed modification will not have any significant adverse impacts in terms of views, the existing built environment or the amenity of the surrounding area.

11.2 Shadows

The proposed modification, although increasing the number of storeys within the buildings, remains consistent with the maximum building heights approved. This is also true for the building setbacks to neighbouring properties.

As such the degree of solar access received within the site and any associated overshadowing onto neighbouring properties is unchanged from that already assessed as part of DA2015/0018 and therefore remains acceptable.

11.3 Residential Amenity

As previously discussed the modified proposal is generally in accordance with the provision of Condition 21 of the Modified Concept Approval. However, the modified proposal relies on the use of vertical circulation shafts which were acceptable under RFDC as per the original application. The ADG does not calculate dwellings above level 9 for natural ventilation, noting that the RFDC incorporated all levels. Further complicating matters, the approved building is substantially constructed.

The assessment notes that the modification relative to the enhanced amenity provisions for ventilation required by Condition 21 of the concept approval would reduce to 64% for Stage 2 (relative to 70% as per the original consent) whilst Stage 3 increases to 71% (relative to 70% as per the original consent). Cumulatively, the modification of both Stages 2 and 3 results in 67% of all dwellings satisfying the enhanced amenity provisions (noting compliance with additional floor to ceiling, glazing and unit area requirements). Whilst the modified proposal fails to achieve overall compliance with the enhanced amenity provisions for Stage 2, all apartments (Stage 2 and 3) which do not achieve 2 hours of solar access in mid-winter, incorporate extensive glazing. Furthermore, 58% (Stage 2) and 47% (Stage 3) of the abovementioned apartments feature increased floor to ceiling height and 59% (Stage 2) and 56% (Stage 3) feature increased apartment areas as prescribed by Condition 21(c).

In light of the above, it is considered that overall the proposed modification is considered to meet the intent of Condition 21 to provide suitable residential amenity, noting the variants in cross ventilation controls between the RFDC and ADG and the physical constraints of the modified building envelope as approved by the PAC.

11.4 Landscaping

The amended proposal is supported by detailed landscape plans. Final details will be subject to submission of further plans to Council's satisfaction as per the original application.

11.5 Traffic and Parking

The amended proposal is supported by a detailed traffic and parking impact assessment. Parking allocation to reflect the modified proposal will be provided by way of condition. No adverse traffic impacts are considered to arise from the modified proposal.

11.6 Noise

The amended proposal is supported by a detailed acoustic report prepared by DK Acoustics. The report incorporates measures to ameliorate impacts which will be captured by way of condition.

11.7 Accessibility

The amended proposal is supported by an access report prepared by Design Confidence. The assessment highlights that the relocation of the community centre will improve public access to the facility internally within the site (i.e. public space) and externally from Nancarrow Avenue and Rothesay Avenue.

11.8 Community facility

Council's Acting Manager of City Planning has confirmed that the size, location and layout of the proposed Community Facility in the upper basement of Stage 3 is satisfactory.

12 SUITABILITY OF THE SITE FOR DEVELOPMENT

The site has been determined as suitable for development by way of the Part 3A Concept Approval.

13 CONCLUSION

Shepherd's Bay is undergoing transition from a former waterfront industrial area to a mixed residential, retail and commercial precinct. The site was included within a Concept Approval determined under the former Part 3A of the Environmental Planning and Assessment Act.

The proposed modification to the approved Stage 2 and 3 (DA2015/0018), comprises the relocation of the required community facility, the provision of an additional 45 apartments and 33 car parking spaces, with an associated increase in the number of storeys within the buildings, adjustment to some apartment configurations, fire stairs and site landscaping.

The proposed modifications do not give rise to any particular issues of concern, nor do they result in the development straying outside of the terms of the modified concept approval.

The issues raised in the public submission have been adequately considered and addressed within the report and via conditions of consent.

It is recommended that the modification be approved subject to conditions.

14 RECOMMENDATION

Pursuant to section 96 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

- A. That the Sydney North Planning Panel grant consent to amend development application LDA2015/0018 as provided in Attachment 1.
- B. That the person who made a submission be advised of this decision.

Report prepared by:

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