

SYDNEY NORTH PLANNING PANEL – BRIEFING NOTE – 16 December 2024

Panel Reference	PPSSNH-540 PAN-469371
DA Number	MOD2024/0191 to LDA2020/0199
Proposed Development	<p>Section 4.56 modification application to LDA2020/0199 which originally approved demolition of the existing structures and construction of a mixed use development comprising 4 buildings ranging in height between 6-7 storeys.</p> <p>This proposed modification application seeks external and internal alterations including increase in the overall height of each of the buildings, increase in GFA due to internal re-arrangement of apartments.</p>
Street Address	1-20 Railway Road & 50 Constitution Road, Meadowbank
Applicant & Owner	Juey Thanyakittikul, The Trustee for Apt Hold Trust 1 Owner: The Trustee for Apt Hold Trust 1
Date of DA lodgement	12 September 2024
Declaration of Interest	Nil
Submissions	Seven submission (6 raising concerns and 1 in support)
Cost of Works	\$86,092,808.00 (Original CIV).
Reason to SNPP	This modification application is made under Section 4.56 of the EP&A Act 1979 for development that is classified as regionally significant under Schedule 6 of SEPP (Planning Systems) 2021 (General Development over \$30m).

The Site

The subject site known as Nos. 1-20 Railway Road and 50 Constitution Road, Meadowbank. The site is an irregular shape and comprises a total of 16 allotments, legally described as:

- Lots 1 to 8 of DP 13637;
- Lots 4 and 5 of DP 7533;
- SP 35053;
- Lots 1 and 2 of DP 384872; and
- Lots 9, 10 and 11 of DP 7533.

The site has four street frontages, a 59.9m northern boundary to Constitution Road, a 42.8m southern boundary to Underdale Lane, a 139.4m western boundary to Railway Road, and a 136.8m eastern boundary to Faraday Lane. The site has a total area of 7,773m². The location of the subject site is shown edged red in the aerial image at **Figure 1** below.

The site falls approximately 4.8m from east to west, with a fall on the western side of the site (down to Railway Road). It also falls approximately 3.3m from north to south, through the centre of the site. Adjacent to the north of the site is a rock face which is raised approximately 3.6m above the street level on Constitution Road. Located adjacent to the north-western corner of the site is public stairs with access from Faraday Lane to Constitution Road.

Demolition is currently underway as approved under Parent LDA2020/0199.



Figure 1: Aerial view of the development site bounded by Constitution Road to the north, Underdale Lane to the south, Railway Road to the west and Faraday Lane to the east.

History of Development Applications on this Site

Parent LDA2020/0199 (PPSSNH-107) was lodged with Council for demolition of the existing structures and construction of a mixed use development comprising four buildings ranging in height between 6 and 7 storeys with 3 basement levels for 419 car parking spaces. The development will be comprised of 133 residential apartments, a boarding house with 162 rooms and 3,591m² of commercial floor space.

LDA2020/0199 was approved by the Land and Environment Court (LEC) on 18 July 2022 as a deferred commencement consent. The deferred commencement conditions were satisfied, and the consent became operative on 14 April 2023.

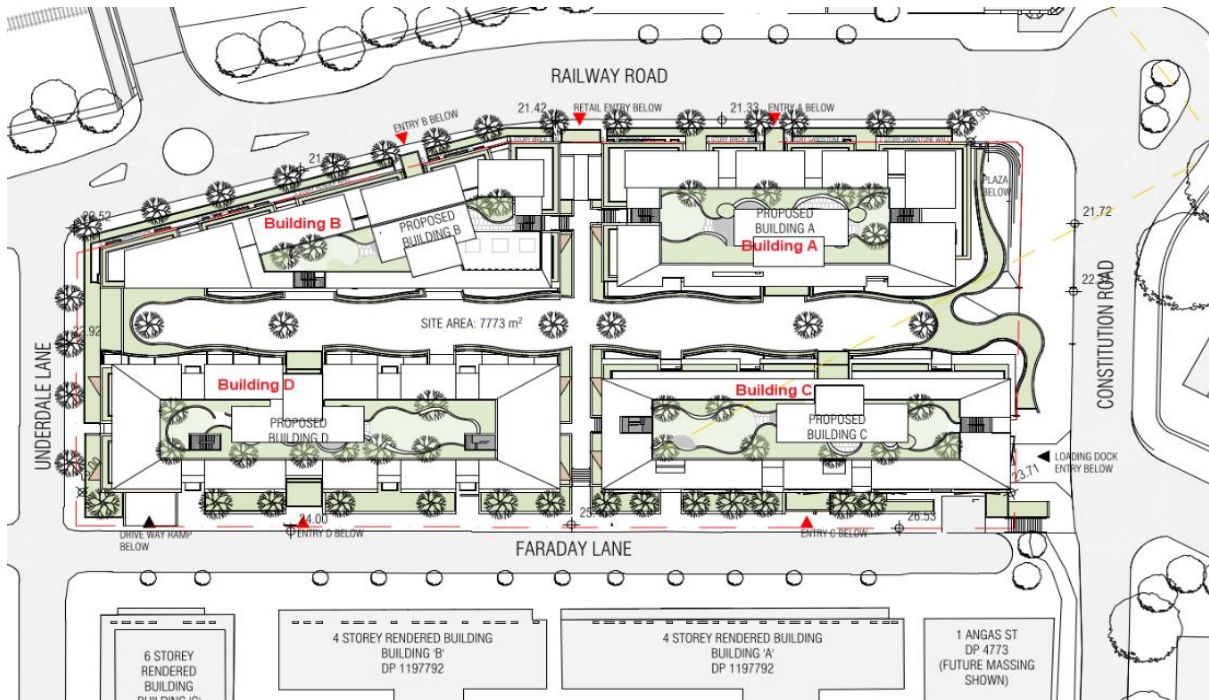


Figure 2: Plan showing the approved layout of the site, which is being retained.

Several modifications have been approved:

- MOD2022/0210 – amend stormwater plans
- MOD2024/0139 – amend condition regarding remediation
- Mod 2024/0005 - approved on 11 September 2024 to change the operational mode of the residential flat buildings (Buildings A, B & C) to rental only under one ownership and deletion of basement 3 to reduce the number of car parking on sit. This modification reduced the number of onsite parking. The modification also reduced the number of apartments from 133 to 129.

The modification amended the description of the development to read:

*Demolition of existing structures and construction of a mixed use development comprising 4 x 6 to 7 storey buildings containing ~~133~~ **129 rental** apartments, **(in single ownership)**, 162 boarding rooms and commercial floor space with basement parking at 1-20 Railway Road and 50 Constitution Road, Meadowbank.*

This was approved by SNPP on 11 September 2024.

This modifications

This modification application seeks to modify LDA2020/0199 for internal and external changes to allow for buildability of the approved development and to improve the residential amenity of apartments.

The modifications include:

- Increase in floor to floor ceiling height to comply with the National Construction Code (NCC) and increase in lift overrun.
- Amend internal layout and glazing alignments of the apartments
- Internal changes to basement levels to include relocation of storage area, grease and pump room, service rooms
- 'Pop 'out glazing between Buildings A & B and C & D removed and replace with vertical strip glazing and privacy screens.
- Roof services added, roof profile amended
- Setback to Constitution road/plaza area amended to enable columns to align structural requirement at ground floor
- Relocation of the gym to Level 1 and amenities relocated at ground floor (ramp gradient adjusted and service rooms reconfigured)
- Laundry area for Building D (Boarding House) deleted and each room provided with own washer/dryer
- Waste area on ground floor re-organised, FOGO bins and bulky waste added to basement 2.

The proposed modifications will result in non compliance with building height and maximum floor space allowed as follows:

Height:

The proposal seeks to increase the floor to floor heights to facilitate the delivery of 2.7m floor to ceiling in habitable rooms and as required by the National Construction Code (NCC). The approved development allowed for a floor to floor height of 3.1m which the applicant has advised is insufficient for construction and therefore requires specific increases in floor to ceiling heights. It is also proposed to increase the lifts overrun as a result of detail lift contractors of the lift overrun height required.

The increase in overall height:

Building	Max permitted under Ryde LEP 2014	Approved Max Height	Approved Variation	Proposed Max height	Proposed variation
A	18.5m (northern portion) 21.5 (southern portion)	25.8m	7.3m 39%	27.03m	8.59m 46.4%
B	21.5m	26.4m	4.9m 23%	27.63m	6.1m 28.7%
C	18.5m (northern portion) 21.5 (southern portion)	24.56m	6.06m 33%	25.79m	7.35m 39.7%
D	21.5m	25.87m	4.37m 20%	27.1m	5.66m 26.3%

Floor Space Ratio

The approved development was granted a bonus FSR under the ARH SEPP, resulting in a maximum GFA allowed of **21,967m² (FSR 2.82:1)**.

The last Mod 2024/0005 approved an increase in GFA to **21,996m²**, variation of 29m² (FSR 2.83:1).

It is now proposed to increase the GFA to **22,649m²**, an increase of **682m²** (3.1% variation) over the maximum allowed or **659m²** over the last approved increase in GFA. The modification will result in a FSR of 2.91:1

The increase in GFA is a result of internal layout and glazing alignments of the residential apartments, amendment to provide improved residential amenity and match the structural grid of the building. The additional floor space is provided within the approved building footprint and will not add any bulk or scale to the approved built form. The new spaces will cover floor space and balcony areas which were previously excluded from GFA calculations and as a result increases the GFA of the development by 659m², resulting in a variation of 3.1%.

Referral to the Sydney North Planning Panel

This application is lodged under s4.56 of the EP&A Act 1979 (the Act) and is referred to the Sydney North Planning Panel (SNPP) as required by the *Sydney District & Regional Planning Panels Operational Procedures November 2022 (Operational Procedures Manual)* which states:

A court granted consent may be modified by a Panel under section 4.56 if it is in relation to regionally significant development.

The SNPP is the consent authority given the Parent LDA2020/0199 is regionally significant development (over \$30m) and this modification application is submitted under s4.56 of the Act.

Urban Design Review Panel

The modification was reviewed by UDRP on 31 October 2024 who advised that the modifications maintain the built form, bulk and scale of the existing approved DA. That the changes to the internal configuration of a number of apartment layouts do not result in any material change to the approved building forms. The changes are supported by the Panel.

The Modification to increase the floor to floor levels to ensure that the requirements of the ADG (2.7m floor to ceiling height) and NCC requirements for waterproofing, slab setbacks and insulation can be achieved is supported.

The design changes to apartment plans and the ground floor communal room, including the deletion of approved 'blinker' windows between Buildings A and B, and C and D (replaced with privacy screen) was supported by the Panel.

The Panel made comments about further refinement to the corner plaza area such as refinement to the awning and slab/planting above have been taken into consideration by the applicant and design changes to the awning, landscaping and entry has been made.

Notification and Submissions

The application was notified to surrounding property owners and occupants and previous submitters in accordance with Council's *Community Participation Plan* and the Regulation. In response, 7 submissions were received during the notification period, 1 of which is in support of the proposal. The concerns raised in the submissions are:

- *Increase in height – Increase in height not necessary. Will result in overshadowing and loss of privacy (to the residents of "The Bay" at 3-13 Angas Street. Buildings C & D will cast afternoon shadows from 2pm on windows and balconies; The Bay that would be overlooked by occupants in apartments and the rooftops of buildings C and D in the proposed development across Faraday Lane. Currently enjoy uninterrupted views to the west over the existing one and two-storey warehouses along Faraday Lane. These views will be completely lost if buildings C and D in the proposed development are built to the scale*

Comments:

The applicant has submitted a section plan illustrating the details of the increase in height is to satisfy both the Apartment Design Guide and NCC Buildability Requirements.

The section plan details the requirement for a floor to floor height of 3165mm in order to accommodate the necessary habitable space, ceilings, service zone, structural zone and slab.

Furthermore, the Statement of Environmental Effects states that a maximum height increase of 1.534m is proposed, *this is limited to where the lift overruns are located. The lift overruns are located centrally within the site and therefore the impact of their height increase will be negligible to those surrounding properties, particularly to the east. When excluding the lift overruns, the overall increase in building height is only 540mm. The increase height to the lift overruns is a product of the increased floor to floor heights below, as well as input from specialist lift contractors who have advised on the minimum lift overrun height required on the site.*

With respect to overshadowing, shadow diagrams have been submitted which illustrate that the buildings along Angas Street to the east of the subject site are not impacted by any shadowing caused by the proposed modifications until 1pm during

midwinter. Figure 3 illustrate the orientation of the site, with Constitution Road to the north, Railway Road to the west, Faraday Lane and Angas Street to the east and Underdale Lane to the south.

With regards to loss of view, the proposed modification to increase in height is mainly for the increase in floor to floor height, with the bulk of the development increased in height by 540mm, and this increase is not considered to have a significant impact on any existing views. No additional level/storey is proposed. Where the height increase extends to 1.534m this is limited to the lift overruns which are located centrally within the site. It should be noted that the original approval for the redevelopment of the site, from low industrial buildings to 4 x 6 and 7 storey buildings would have impacted on 3-13 Angas Street outlook to the west.



Figure 3: The site and location of surrounding developments.

The approved development will not cast shadow on the buildings opposite in Faraday Lane and Angas Street until 1pm, see Figure 4 illustrating the shadow cast from 1pm to 4pm. The additional shadow to the buildings in Underdale Lane

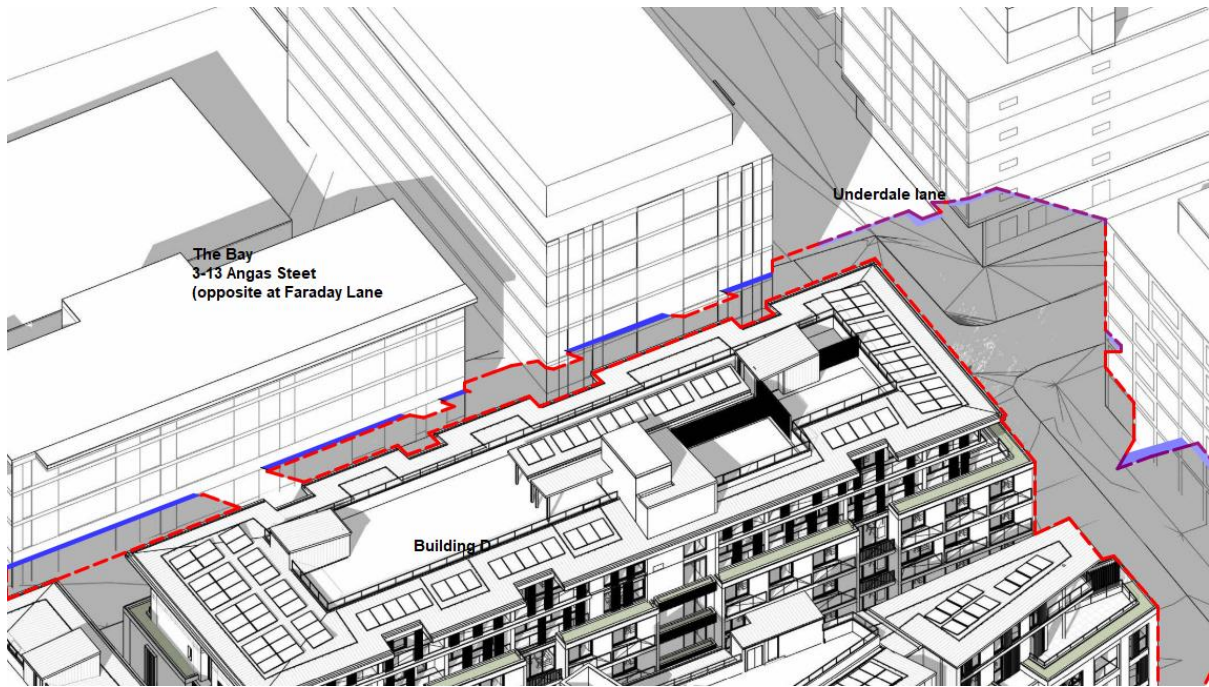


Figure 4 June 21 – 1pm. Shadow cast onto building opposite at Faraday Lane, onto the development known as The Bay (3-13 Angas Street) and to the buildings at Underdale Lane. The purple outline is the additional shadow cast from the proposed increase in height.

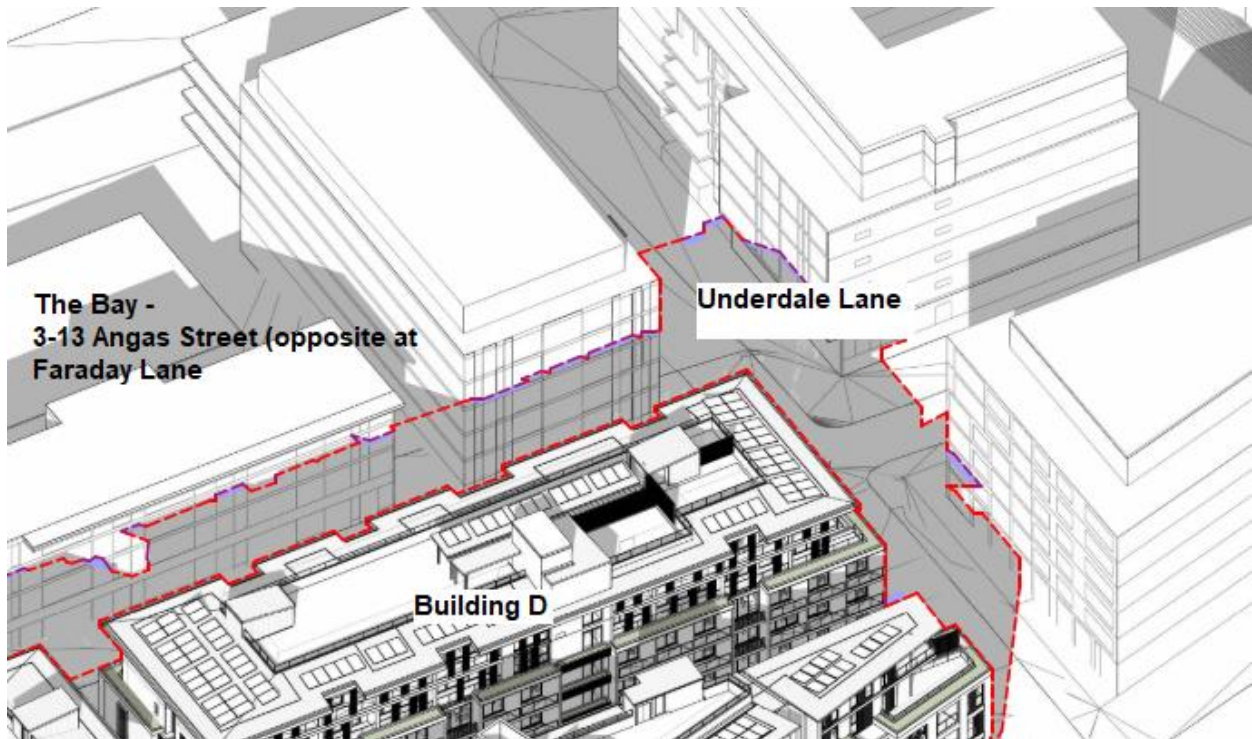


Figure 4: June 21 – 2pm. Shadow cast onto building opposite at Faraday Lane, onto the development known as The Bay (3-13 Angas Street). The purple outline is the additional shadow cast from the proposed increase in height.

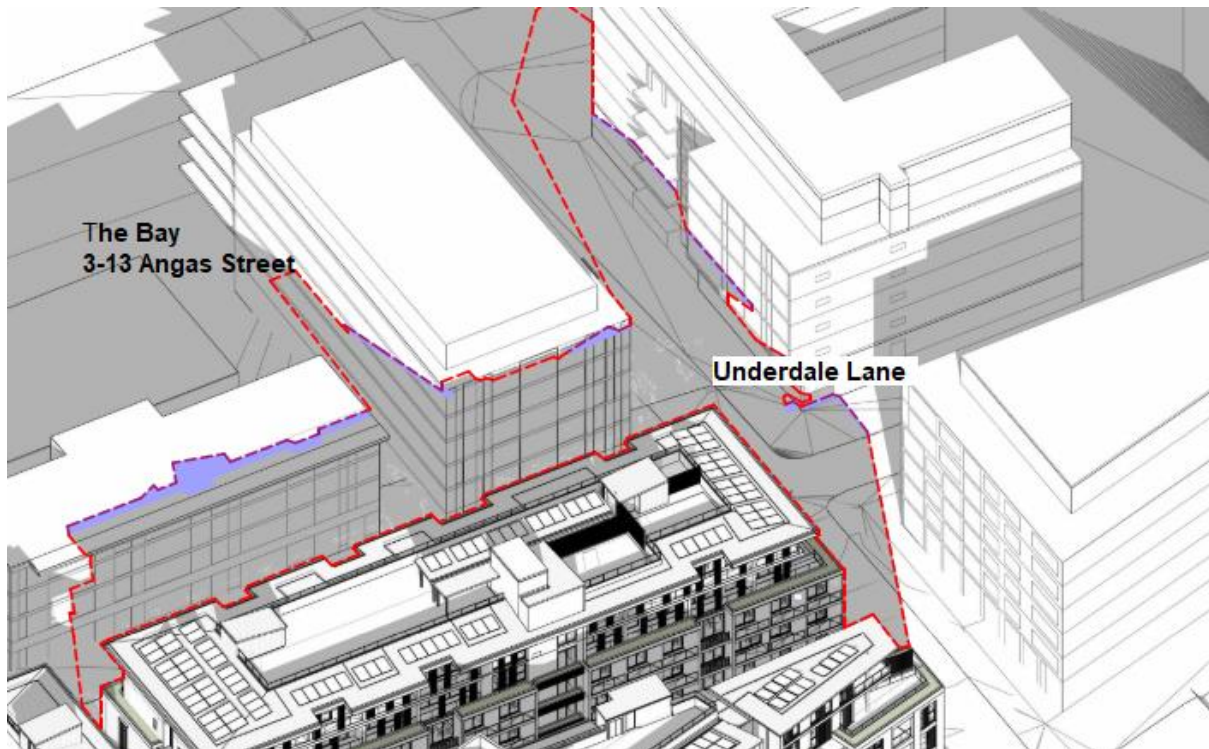


Figure 4 June 21 – 3pm. Shadow cast onto building opposite at Faraday Lane, onto the development known as The Bay (3-13 Angas Street). The purple outline is the additional shadow cast from the proposed increase in height.

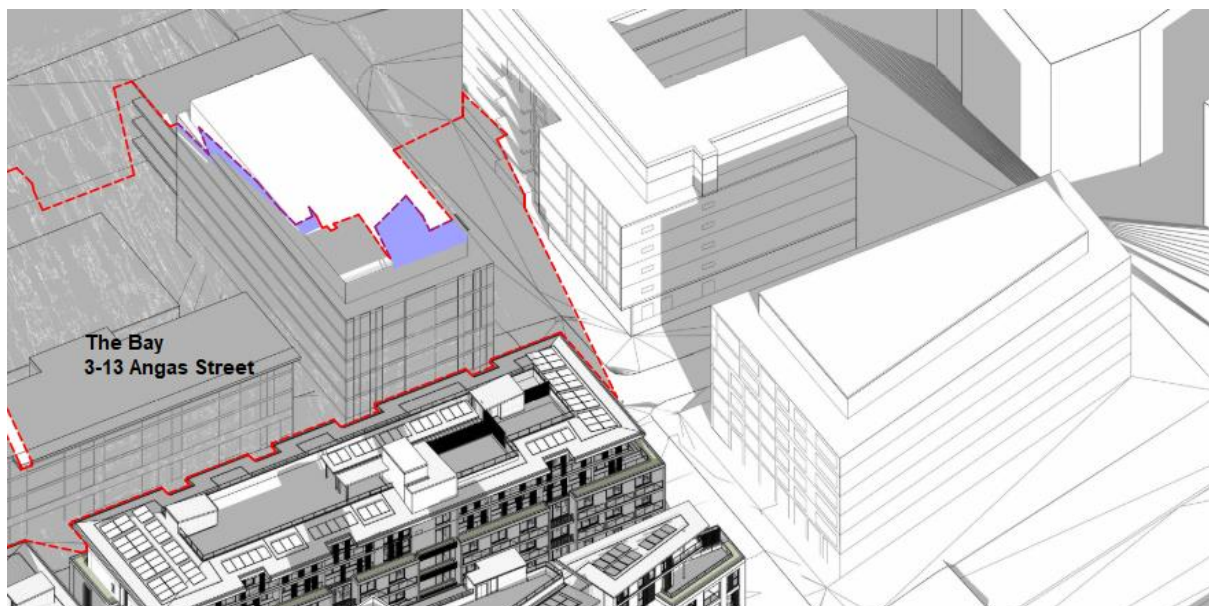


Figure 4 June 21 – 4pm. Shadow cast onto building opposite at Faraday Lane, onto the development known as The Bay (3-13 Angas Street). The purple outline is the additional shadow cast from the proposed increase in height.

From 2pm, the extent of additional shadowing caused by the proposal is relatively minor, and by 3pm the additional shadow is on the roof, as shown by the purple shading in the shadow diagrams. 'The Bay' will not receive any additional overshadowing from the proposal until 1pm, with the extent of shadow caused by the modification having negligible impacts on the amenity of those apartments.

Concerns about overlooking due to the increase in height is not warranted as the buildings maintains the approved building setbacks and separation distance to all site boundaries. Roof top terrace areas were approved in the original development and the increase of 540mm to the overall height of each of the building will not result in additional overlooking. The proposal will not alter the number or location or windows and openings at the elevation to Faraday Lane and the proposed height increase will not create any unreasonable instances of overlooking or direct sightlines.

- *Development out of character*

Comments:

LDA 2020/0199 approved 4 x 6 to 7 storey buildings comprising of residential apartments, a boarding house and commercial floor space with basement parking. This application do not change the essence of the approved development. There are no significant changes to the streetscape, building separations and built form. The architectural design, number of storey and landscape areas remain the same as approved. Whilst the height of the buildings will increase by 540mm with a maximum increase of 1.54m for the lift overruns, the increase in height is not considered to change the character of the development, as approved.

- *Does it comply with State Environmental Planning Policy (Housing) 2021 (20)(3).*

Comments:

The approved development was considered to address and satisfy the requirements of SEPP (Affordable Rental Housing) 2009 which continues to apply to the site in accordance with the savings provisions within Schedule 7A of the Housing SEPP. At cl 30 of the SEPP ARH, consent cannot be granted unless certain requirements are met. The commissioner in her judgement, (point 7) states: *based on the Jurisdictional Note and the architectural plans, I am satisfied that each of the matters in cl 30(1) of the SEPP ARH are met by the proposed development. Clause 30A of the SEPP ARH requires consideration of "whether the design of the development is compatible with the character of the local area". I am satisfied that the stepped form of the development between 6 and 7 storeys and its design is compatible with the surrounding developments and the high-density character of the local area.*

- *Amenity – roof services - potential impact*

Comments:

The roof services on Buildings D & C (which are opposite to 3-13 Angas Street) have been located as far from the adjoining development at No. 3-13 Angas Street to minimise any adverse impact by these services. However Conditions have been imposed to minimise noise emitted from ancillary elements, such as air-conditioning units, for the equipment to be installed in accordance with the manufacturer's specification and noise attenuation measures implemented so that noise emitted do not exceed 5dB(A) above the background noise level when measured on or within any other residential property boundary. Plus Within 3 months of completion a post

commissioning report must be produced by an acoustic consultant. The post commissioning report must consider the principles of the Noise Policy for Industry and assess the noise generated within a habitable room of the nearest sensitive receivers and any other required location.

- Site already benefit from additional bonus floor space with the increase in floor space cannot be considered as minor.

Comments:

The proposed increase in floor space is not a result of any additional apartments but as a result of internal layout changes and realignment of glazing. The additional floor space is within the approved buildings footprint and do not add any bulk or scale. The internal changes to the apartment layout will improve amenity and the increased GFA is a results from a combination of minor changes to the 129 apartments which when totalled over the entire development, represent a minor variation which do not add to the bulk or scale of the development and the difference is not able to be perceived or noticeable.

What's Next?

The proposed modifications can be supported by Council and if SNPP is in agreement, the application to be determine under delegation by Council.