

SECTION 4.55(2) APPLICATION

**88 CHRISTIE STREET,
ST. LEONARDS**

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

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Project Code	SA6820
Report Number	FINAL

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1. INTRODUCTION

This Section 4.55(2) modification application has been prepared by Urbis Pty Ltd on behalf of Christie Street Development Pty Ltd (**JQZ**) (**the Applicant**) to amend Development Application DA 6/2018 for the construction of a mixed-use development at 71-79 Lithgow Street, 82-90 Christie Street, and 546-564 Pacific Highway St Leonards.

Specifically, this modification application seeks approval for amendments to the approved architectural plans referenced in Condition 1 of the conditions of consent (**the Consent**) to reflect modification to the approved unit mix, minor internal design changes, and external changes resulting from further detailed design.

1.1. OVERVIEW

Development consent was issued for DA 6/2018 by Sydney North Planning Panel on 28 November 2018 for:

Demolition of existing structures and basements, excavation to accommodate ten (10) basement levels including the provision of 316 public car parking spaces, construction of a fourteen (14) storey commercial building and two (2) mixed-use towers of twenty-six (26) storeys and forty-seven (47) storeys providing a total of 654 units and including a public library and retail space (including a supermarket), creation of a new laneway and public domain works at Christie Lane and Lithgow Street and associated works including tree removal, signage, and stratum subdivision.

This modification specifically seeks to modify the following elements of the approved design:

- **Residential Apartments:**

- Reduction in penthouse apartments (five penthouses are reduced to four in Tower 1 [**T1**]);
- Revision of apartment layouts to revise apartment mix (Conversion of 2 studio apartments; 16 x 1 bedroom units and 14 x 2 bedroom apartments resulting in an additional 15 x 3 bedroom units);
- Revised solar diagram (reflecting reduction in total apartment numbers);
- Revision of adaptable unit number mix and revised adaptable layout.

- **Traffic, Parking and Access:**

- Reallocation of the approved 316 public car spaces to most logical location;
- Provision of an additional car exit lanes in Basement 2 (two lanes);
- Revised loading dock layout;

- **Upgrades and relocation of Lifts:**

- Relocation of Public lifts;
- Replacement of lift model in T1, resulting in additional lift overrun height at the roof level;

- **Staging and Construction:**

- Reduction of staging to a single stage of construction (from two stages);

- **Built Form:**

- Increase in the approved T1 height by 4.52m to accommodate the extended lift overrun;
- Additional approximate 300mm projection from the approved Tower 2 (**T2**) to the east for an enlarged service platform;
- Increase in the approved commercial tower (**T3**) height by 3.65m to provide an A-grade office lobby entry;
- Replacement of Y-columns on T3 building façade and minor changes to awning designs;

- **Minor amendments to communal open space; and**

- **Minor amendments to the internal floor plan of retail levels.**

Due to an error in the architectural plans, additional amendments to the building façade are proposed since the lodgement of the original S4.55(2) modification. This application now also seeks the removal of planter boxes on the western elevation of T3 and an amendment of the relevant condition. Additional planter boxes are also proposed on the Princess Highway frontage at ground level to meet the requirements of Condition 18. An error in the access report has also been updated to correct an issue with the adaptable car parking calculations.

The architectural plans, landscape plans and access report have been updated to incorporate these amendments.

1.2. REPORT STRUCTURE

The proposed modification is made pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* as the development is substantially the same as the development for which consent was originally granted and considers the proposed modifications against Section 4.15 of the EP&A Act.

This report includes the following information:

- Site overview and background to the proposal;
- Description and rationale for the proposed modifications;
- The modifications sought to the consent instrument; and
- An assessment of the modified proposal against the relevant planning controls.

1.3. SUPPORTING DOCUMENTATION

To inform the assessment of the proposed modifications, this report has considered the following plans and specialist reports:

- Architectural Plans prepared by PTW Architects (**Appendix A**)
- View Impact Analysis prepared by PTW Architects (**Appendix B**)
- Landscape Plans prepared by Arcadia (**Appendix C**)
- Structural Report prepared by ABC Structural and Civil Engineers (**Appendix D**)
- Traffic and Parking Review prepared by Michael Lee and Associates Transport Planning (**Appendix E**)
- Lift advice prepared by Schindler (**Appendix F**)
- Wind advice prepared by WindTech (**Appendix G**)
- Waste Management Plan prepared by Elephant's Foot (**Appendix H**)
- BASIX Certificate prepared by Northrop (**Appendix I**)
- BCA and Access Report (**Appendix J**)

The application is also supported by:

- Completed Section 4.55(2) application form, including owners' consent; and
- A USB of the complete application.

2. SITE AND PROJECT CONTEXT

The site includes the land described as 71-79 Lithgow Street, 82-90 Christie Street, and 84A Christie Street (**Site A**), 546-564 Pacific Highway (**Site B**), and the Christie Lane and Lithgow Street road reserves. The site is located within the suburb of St Leonards within the Lane Cove Local Government Area (**LGA**). It is at the boundary of both the Willoughby LGA and North Sydney LGA. St Leonards is located 6km north of the Sydney CBD and is in close proximity to the commercial centres of North Sydney, Chatswood and Macquarie Park.

The street address and legal description of each lot comprising the site is identified within **Table 1**.

Table 1 – Legal Description of The Site

SEE Reference	Address	Legal Description
Site A	84 Christie Street	1/SP4116 & 2/SP4116
	86-90 Christie Street	50/18/DP3175 & 4/DP560889
	75 Lithgow Street	10/18/DP3175
	77 Lithgow Street	72/DP542079
	79 Lithgow Street	71/DP542079
Site A - Ausgrid	84A Christie Street	3/DP560889
Site B	546 Pacific Highway	1/DP1083362
	548-550 Pacific Highway	1/DP200301
	552 Pacific Highway	2/DP200301
	554-556 Pacific Highway	C/DP339273
	558 Pacific Highway	B/DP415468
	560 Pacific Highway	A/DP415468
	562 Pacific Highway	1/DP656501
	564 Pacific Highway	1/DP651204
Site C (New Christie Lane and part of Site A)	82 Christie Street	46/18/DP3175
	71-73 Lithgow Street	11/18/DP3175
Christie Lane	Christie Lane	Existing Christie Lane
Lithgow Street	Lithgow Street	Existing Lithgow Street

Figure 1 – Aerial Photograph of the site



Source: Six Maps

2.1. PROJECT BACKGROUND

2.1.1. Development Consent History

Planning Proposal

On 15 May 2017, the Council adopted a Planning Proposal for 'Site A' within the development site (excluding the Ausgrid site and Site C) including 84-90 Christie Street and 75-79 Lithgow Street, St Leonards. The LEP Amendment was gazetted on 1 December 2017, and had the following effect:

- Rezone Site A (excluding Site C) from B3 Commercial Core to B4 Mixed Use;
- Increase the building height to a maximum of RL227.4;
- Permit a total floor space ratio (FSR) of 17.7:1, using a bonus FSR mechanism in return for public benefits including:
 - An additional FSR of 2:1 for providing a supermarket with public parking;
 - An additional FSR of up to 1.6:1 for site amalgamation of shops at 546-564 Pacific Highway, adjacent to the site, for a new commercial building;
 - Require a minimum amount of non-residential FSR of 2.5:1, which can be reduced to 1.5:1 (prorated) based on amalgamation of the properties within Site B, or part thereof; and

The Council also resolved in May 2017 to adopt a draft amendment to the Lane Cove DCP 2009 providing site specific provisions for the development within the Christie Street Precinct. In March 2016 the Council

resolved to publicly exhibit a draft VPA that will apply to the future development on Site A that is generally in accordance with the planning controls sought by the Planning Proposal.

Demolition DA

On 30 November 2017, the Council approved a development application (DA149/2017) for the demolition of existing buildings and associated structures and basements at 546-564 Pacific Highway, 71-79 Lithgow Street and 82-90 Christie Street, St Leonards. As such, demolition of the existing buildings on site has now commenced and partially completed.

Building DA

On 28 November 2018, the Sydney North Planning Panel approved a development application (DA 6/2018) for:

- Demolition of existing structures and basements,
- Excavation to accommodate ten (10) basement levels including the provision of 316 public car parking spaces,
- Construction of the following buildings:
 - **T1** - Forty-seven (47) storey mixed use building;
 - **T2** - Twenty-six (26) storey mixed use building;
 - **T3** - One fourteen (14) storey commercial building;
 - A public library; and
 - Retail space (including a supermarket).
- Creation of a new laneway and public domain works at Christie Lane and Lithgow Street and associated works including tree removal, signage, and stratum subdivision.

3. PROPOSED MODIFICATION

3.1. DESIGN MODIFICATIONS

The Section 4.55(2) modification seeks to modify the following conditions of the consent of DA 6/2018:

- **Condition 4 – Section 7.11 Contribution Payment**
- **Condition 7 – Maximum Building Height**
- **Condition 19 – Planter Boxes**
- **Condition 49 – Approved Plans and Supplementary Documents**

The above changes to the Consent are sought in order to support the design modifications detailed in the following sections.

3.1.1. Apartment Layouts

The proposed modification includes the following changes to residential apartments:

- A reduction in the overall number of penthouse apartments in T1 from five to four;
- Conversion of current one and two bedroom apartments into larger 3 bedroom apartments; and
- Revision of adaptable unit number mix and revised adaptable layout.

The proposed changes result in an overall reduction of 17 apartments. Changes are proposed to provide a greater diversity of housing options and better respond to market demands, which have demonstrated a need for larger unit sizes to accommodate families. Internal changes to apartment layouts aim to provide better functionality for residents and allow for an increased percentage of adaptable units. Key calculations including solar access for the site has been revised to reflect the reduction in overall apartment numbers on site.

Due to the changes proposed to the overall apartment mix, Section 7.11 contributions have been revised to reflect the reduction in overall apartment numbers on site. 2018/2019 rates have been used for consistency in this proposal.

3.1.2. Staging and Construction

Since the approval of the proposed development, existing tenants have ceased to lease the retail properties along the northern boundary of the site and all internal leasing agreements have been finalised. This has allowed construction to occur in a single stage of construction. Plans have been updated to reflect this change which will ensure the proposed development is completed in an efficient manner.

3.1.3. Traffic, Parking and Access

The basement parking has been redesigned as part of this modification to reflect the proposed changes to construction staging and to improve the overall layout of the approved parking. Amendments to parking and access include:

- Reallocation of existing 316 public car spaces to produce a more logical layout for public car parking;
- Additional car exit lanes in Basement 2 (to two lanes);
- Reduction of 37 car spaces; and
- Revised loading dock layout.

Traffic

A review of traffic generation undertaken by Michael Lee and Associates Transport Planning (MLA Transport Planning), enclosed in **Appendix E**, indicates that the revised proposed development would generate less traffic than the approved scheme. As such, the revised proposed development is not expected to create any additional traffic impacts than considered in the original approved scheme.

Parking

Based on the revised scheme, the proposed development is required to provide a total of 1,073 car parking spaces. It is proposed to provide a total of 1,029 car parking spaces including a stratum lot containing 316 car parking spaces to be dedicated to Council. This level of car parking provision is considered to be satisfactory for reasons outlined below based on the Traffic and Parking review prepared by MLA Transport Planning enclosed in **Appendix E** and outlined in **Section 5.5.3**

In relation to the design of the car park, it is proposed to design the car parking spaces to comply with the design requirements set out in the relevant Australian Standard for car parking facilities, namely AS2890.1:2004 and AS2890.6:2009.

Access

Consistent with the approved development, the proposed development (including for service vehicles) will be accessed from the approved new laneway near the termination of Lithgow Street. As per the approval, the access will continue to have three traffic lanes (at the property boundary) comprising:

- Single lane, two-way ramp providing access to the loading dock
- Single entry lane into the public car park which also permits residential traffic to diverge into the express ramp in the evening period, and
- Single exit lane from the public car park which residential traffic will merge into during the morning period.

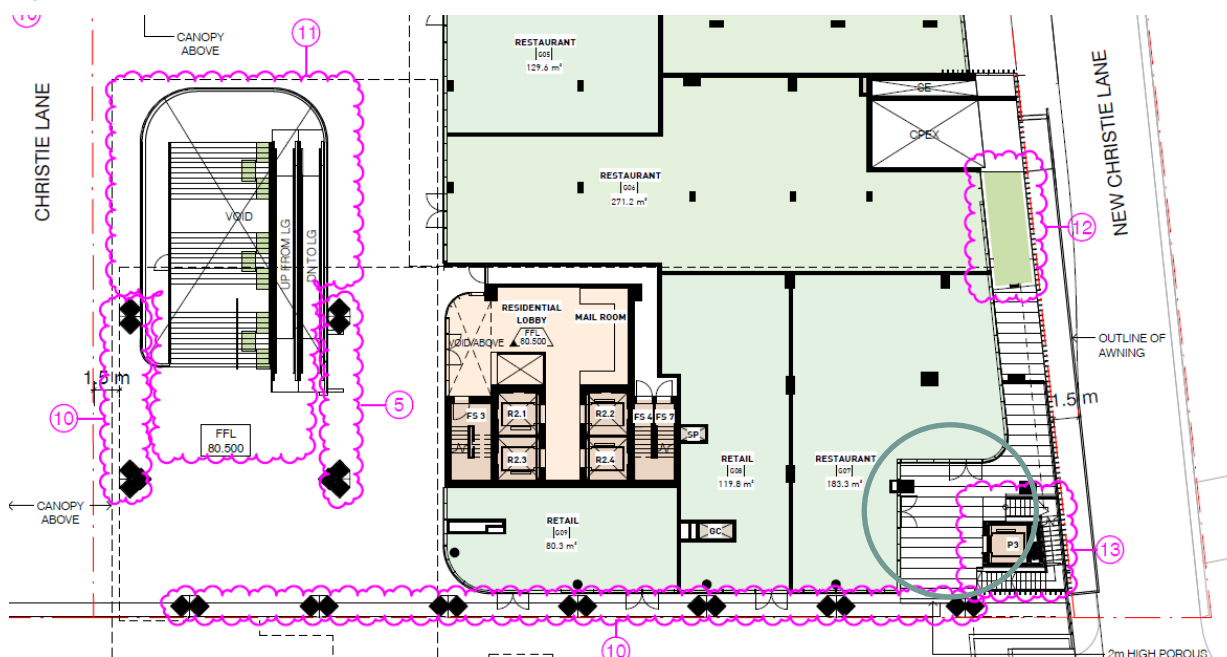
In addition, roller shutter gates are to be provided at the end of the proposed contra flow express residential access. The roller shutter gates will be provided to meet Council's requirements.

3.1.4. Upgrades and relocation of Lifts

Relocation of Public Lifts

To allow for improved accessibility from New Christie Lane, this modification seeks to relocate the public lifts and stairs to the south west corner of T1, illustrated in **Figure 2**. The proposed public lifts are to be relocated in a highly visible and convenient location. The lift will provide access between Lower Ground, Ground and Level 01.

Figure 2 – Location of new public lift on Ground Level



Source: PTW Architects

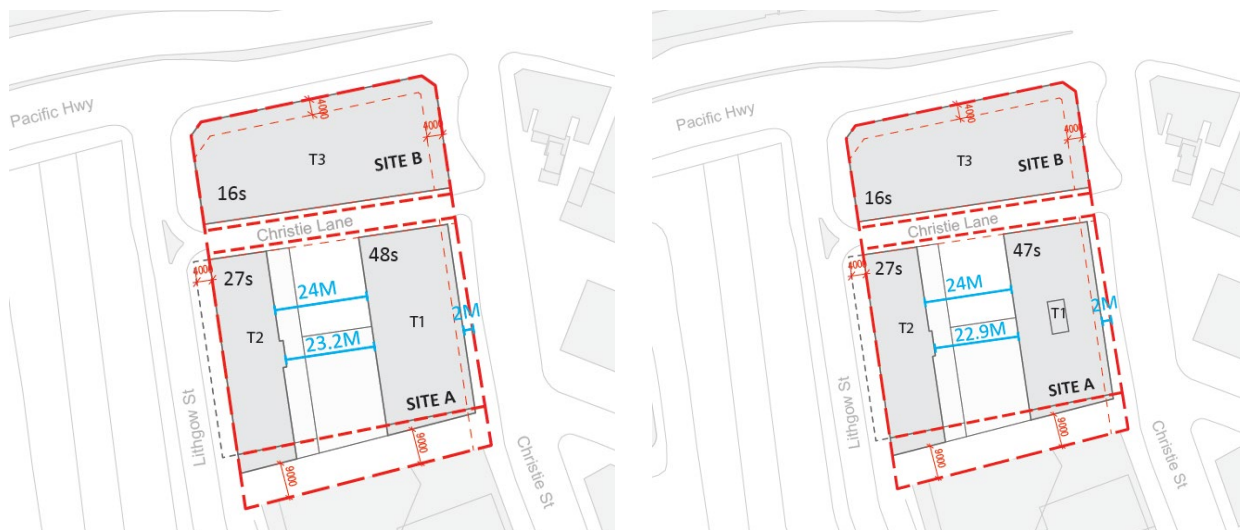
Replacement of T1 Lift

The approved development assumed that T1 would be serviced by a Schindler 5500 elevator. The original lift did not service the basement levels of the development which would result in residents changing lifts at the ground floor for basement access. During design development, the original lift was replaced with a Schindler 7000 model to improve the speed and direct residential access to the basement parking levels. The proposed lift requires additional design specifications outlined in advice prepared by Schindler enclosed in **Appendix E**, including a machine room above the lift shaft. This will increase the lift overrun and overall height of T1 by 4.52 metres.

3.1.5. Built Form

The following changes to the overall built form are proposed to allow for adjustments which have been realised during design development and to ensure consistency with the proposed amendments outlined in this modification.

Figure 3 – Proposed amendments to the site plan



Picture 1 – Approved Site Plan

Picture 2 – Proposed Site Plan

Source: PTW

Increased Height to T1

As outlined above in **Section 3.1.4**, this modification seeks to increase the height of T1 by 4.52m to accommodate the extended lift overrun.

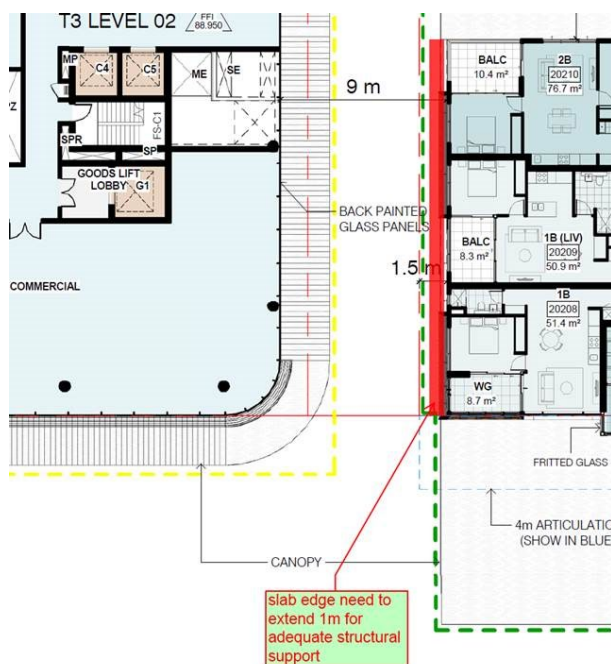
Reduced Building Separation between T1 and T2

An additional approximate 300mm projection to T2 is also necessary to provide adequate structure support and allow for an enlarged service platform. This projection will reduce the current building separation between T2 and T3. The T2 core amendments respond to both technical and hygiene considerations, which require the louvred platform to be extended 300mm further to the east to accommodate the AC units as well as the kitchen exhaust from retail below.

Reduced Building Separation between T2 and T3

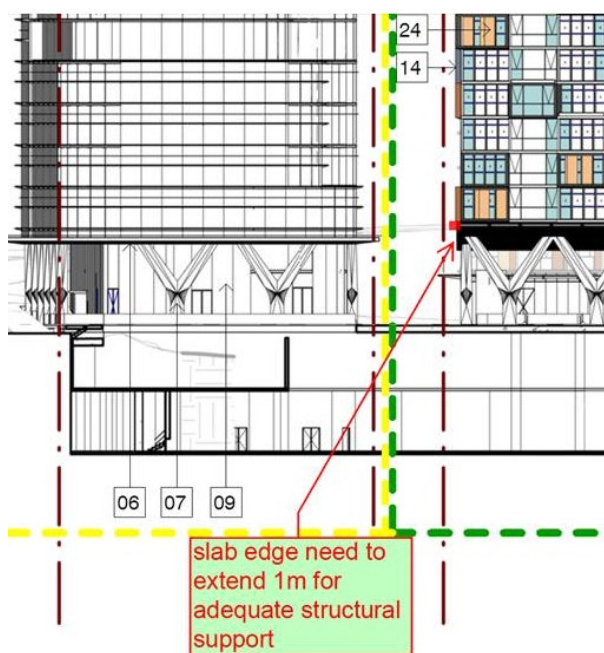
Changes to the northern façade of T2 are proposed to allow adequate structural support. The proposed changes result in a reduction of the setback above the podium. As illustrated in **Figure 4**, the protrusion is unlikely to be visible to pedestrians due to the existing awning. As the protrusion is only located on Level 02 and not higher it will not contribute significantly to the overall bulk and scale of the building.

Figure 4 – Reduced northern setback of T2



Picture 3 – T2 Level 02 Floor Plan

Source: PTW Architects



Picture 4 – T2 North Elevation

Removal of Level 01 and Increase in Height of T3

This modification seeks to remove Level 01 of T3 and increase the overall height of the tower by 3.65 metres. The removal of Level 01 and the increase in the proposed floor to floor height in the approved T3 design enables the creation of greater lobby space and overall grander entrance to the building, which is considered appropriate in scale and needed to attract A-grade commercial office tenants.

3.1.6. Building Façade

Removal of planter boxes on western elevation of T2

Removal of planter boxes on the western façade of T2 are proposed as they cannot be safely maintained and were included in the plans as the result of an architectural drafting error. The removal of planters are superfluous to the structural integrity of the building and provide no change in compliance with ADG or DCP controls. The removal of planters does not undermine the achievement of design excellence of the overall building.

Replacement of Y-columns

During design development, investigation into the approved Y-columns on T3 found that the proposed design could result in non-structural cracking on the building façade. The proposed solution outlined in structural advice enclosed in **Appendix D** prepared by ABC Consultants is to replace the Y-column with a V-column to reduce the potential for visible cracks on the façade, illustrated in **Figure 5**.

Figure 5 – Changes to Building Façade



Picture 5 – Photomontage of approved design

Source: : PTW Architects



Picture 6 – Photomontage of Proposed Modification

Source: PTW Architects

Minor changes to the schedule of materials and finishes are also proposed with updated reference images to align with changes during design development. An updated Design Statement has been prepared by PTW Architects which ensures that the overall architectural quality and aesthetic of the development is maintained.

3.1.7. Communal Open Space

The communal open space and overall landscape plans have been redesigned to incorporate design development including a reduction to podium communal open space on Level 2. Details of changes are outlined in the Landscape Plans prepared by Arcadia, enclosed in **Appendix C**. The plans have also been amended to incorporate one construction stage.

3.1.8. Additional Internal Changes

The modification application seeks to revise retail layouts within the development to rationalise the internal areas of the building and provide an improvement in wayfinding and amenity. Changes are proposed to the

footprint of the library on the lower ground floor and supermarket located in Basement 01. Additional amendments to internal space are proposed to account for changes during design development including the amendments outlined in this modification.

Overall, the revised proposed retail area will decrease from 10,457sqm GFA (or 9,412sqm GLA) to 9,801sqm GFA (or 8,022sqm GLA), while the revised commercial floor area will increase fractionally from 19,322sqm (GFA) to 19,535sqm (GFA). A numerical comparison of the approved development against the proposed modified development has been undertaken within **Table 2** below.

Table 2 – Numerical Overview

[illegible]

Component	Approved	Proposed Modification	Change
	Two-bedroom – 395 (60.4%) Three-bedroom – 56 (8.6%) Four-bedroom – 3 (0.5%) Five-bedroom – 1 (0.2 %) Total 654 apartments.	Two-bedroom – 381 (59.8%) Three-bedroom – 71 (11.1%) Four-bedroom – 4 (0.6%) Five-bedroom – 0 (0 %) Total 637 apartments.	<ul style="list-style-type: none"> • Total of 1 and 2 bedroom units reduced to enable more 3 beds. • Reduction from 5 to 4 penthouses.
Total Adaptable Apartment No.	66 (10%) residential units are adaptable	64 (10.5%) residential units are adaptable	Overall reduction of apartments does not result in a decrease in the percentage of adaptable apartments.
Total Parking No.	1,073 car spaces: <ul style="list-style-type: none"> ○ 542 residential spaces ○ 406 retail car spaces (including 316 spaces dedicated to Council) ○ 125 commercial car spaces 	1,037 car spaces: <ul style="list-style-type: none"> ○ 542 residential spaces ○ 374 retail car spaces (including 316 spaces dedicated to Council) ○ 121 commercial car spaces 	Reduction of 37 car spaces overall with no reduction of car spaces dedicated to Council

3.2. PROPOSED AMENDMENTS TO CONDITIONS OF THE CONSENT

The proposed modifications to the conditions of the consent are shown by a ~~strike through~~ the deleted text and **bold red text** for new text. To ensure consistency is maintained, the approved architectural set is proposed to be replaced by a new set that incorporates the proposed design amendments.

PART A – SPECIAL CONDITIONS

4. Section 7.11 Contribution Payment

Payment of a contribution in accordance with Council's Section 94 Contributions Plan is required, prior to issue of the Construction Certificate for above ground works. Contributions shall be indexed at the time of payment in accordance with Council's Plan.

The total Section 7.11 contribution payable is \$13,835,256.00 at the current rate of \$10,332 per person and \$130 per square metre for retail/commercial based on the 2018/2019 fees and charges.

Payment shall be in the form of a bank cheque. Personal cheques will not be accepted.

This contribution is for community facilities, open space/ recreation and roads under the Lane Cove Section 94 Contributions Plan, which is available for inspection at the Customer Service Counter, Lane Cove Council, 48 Longueville Road, Lane Cove.

The contribution payable is calculated in the following manner:

Residential Contributions

Dwelling Type	Total number of persons per dwelling	Contribution payable @ \$10,332/person 2018/2019 fees and charges
2 0 x Studio	2 x 1.2 = 2.4 0 x 1.2 = 0	\$24,796.8 \$0
197 181 x 1 bedroom	197 x 1.2 = 236.4 181 x 1.2 = 217.2	\$2,442,484.80 \$2,244,110.40
395 381 x 2 bedroom	395 x 1.9 = 750.5 381 x 1.9 = 723.9	\$7,754,166.00 \$7,479,334.8
56 71 x 3 bedroom	A cap of \$20,000 per dwelling has been imposed under the Reforms of Local Development Contribution 56 x \$20,000 = \$1,120,000.00 71 x \$20,000 = \$1,420,000	\$1,120,000 \$1,420,000
3 4 x 4 bedroom	A cap of \$20,000 per dwelling has been imposed under the Reforms of Local Development Contribution 3 x \$20,000 = \$60,000.00 4 x \$20,000 = \$80,000	\$60,000 \$80,000
4 0 x 5 bedroom	A cap of \$20,000 per dwelling has been imposed under the Reforms of Local Development Contribution 1 x \$20,000 = \$20,000.00 0 x \$20,000 = \$0	\$20,000 \$0
Total: 654 637 units		\$11,421,447.60 \$11,223,445.20
Credit for existing residential		
Dwelling Type	Total number of persons per dwelling	Contribution payable @ \$10,332/person 2018/2019 fees and charges
2 x 2 bedroom	2 x 1.9 = 3.8	\$39,261.60

5 x 3 bedroom	A cap of \$20,000 per dwelling has been imposed under the Reforms of Local Development Contribution $5 \times \$20,000 = \$100,000.00$	\$100,000.00
Total: 7 units		\$139,261.60
Commercial/retail contributions		
Proposed Use	Area	Contribution payable at \$130 per m2 (2018/2019 fees and charges)
Retail	10,457.78m2	\$1,359,511.40
Commercial	19,321.55m2	\$2,511,801.50
Total	29,779.33m2	\$3,871,312.90
Credit for existing commercial buildings		
Use	Area	Contribution payable at \$130 per m2 (2018/2019 fees and charges)
Site A Commercial	6,675m2	\$867,750.0
Site B Retail	1,368m2	\$177,840.0
Site C Commercial	1,978m2	\$257,140.0
Total	10,021m2	\$1,302,730.0
Total Section 7.11 Contributions Payable		
Contribution Type		Amount 2017/2018 fees and charges
		\$11,421,447.60
Residential:		\$11,223,445.20
Credit for existing residential buildings:		-\$139,261.60 (minus)
Commercial/Retail:		\$3,871,312.00
Credit for existing Commercial/Retail buildings:		-\$1,302,730.00 (minus)
Total Contribution:		\$13,850,768.90

The total Section 94 contribution for the proposal is ~~\$13,850,768.90~~ **\$13,652,765.60**

(Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.)

7. Maximum Building Height

- (i) The height of Tower 1 including any plant and lift overruns shall not exceed RL ~~227.4~~ **231.92**.
- (ii) The height of Tower 2 including any plant and lift overruns shall not exceed RL 166.8.
- (iii) The height of the lightening rod on Tower 1 shall not exceed RL 234.3.
- (iv) The height of the lightening rod on Tower 2 shall not exceed RL 173.815.
- (v) The height of the main roof (L15) to Tower 3 shall not exceed RL ~~136.400~~ **140.05**.
- (vi) The maximum height of the roof-top plant enclosure on Tower 3 shall not exceed RL ~~141.900~~ **145.55**.
- (Reason: To ensure that the development is in accordance with the approved plans).

19. Planter boxes

The planter boxes to T2 shall be constructed in accordance with the approved drawings including:

- ~~random planter boxes to the western elevation of T2;~~
- planter boxes to the roof terrace at Level 26 of T2;
- planter boxes to the east facing balconies at Level 07 of T2.

In addition, planter boxes shall be installed to the Level 06 non-trafficable roof area of T3 along the western side of the front northern, western and rear southern elevations, and to the rear non-trafficable roof area at Level 03 of T3, as depicted in the submitted perspective drawings. These shall be contained wholly within the subject site (unlimited in depth and height).

PART B – CONDITIONS OF CONSENT:

49. Approved Plans and Supplementary Documents

a) Approved Plans

That the development, except as amended by the following conditions, be carried out in accordance with the following drawings:

Table 3 – Proposed Amendments to Condition 1 of the Consent

Architectural Drawings		
All prepared by: PTW Architects		
Drawing Number	Title/Description	Revision/Date
DA-00-0000	Drawing List	15.10.2018 D 17.01.2020
DA-00-0001	Location and Site Plan	15.10.2018
DA-00-0002	Site Analysis	15.10.2018
DA-00-0010	Demolition Plan	15.10.2018
DA-10-0900	Basement 10 Plan	15.10.2018 H 17.01.2020
DA-10-1000	Basement 09 Plan	15.10.2018 H 17.01.2020
DA-10-1100	Basement 08 Plan	15.10.2018 H 17.01.2020
DA-10-1200	Basement 07 Plan	15.10.2018 I 17.01.2020
DA-10-1300	Basement 06 Plan	15.10.2018 I 17.01.2020
DA-10-1400	Basement 05 Plan	15.10.2018 I 17.01.2020

Architectural Drawings		
All prepared by: PTW Architects		
Drawing Number	Title/Description	Revision/Date
DA-10-1500	Basement 04 Plan	15.10.2018 I 17.01.2020
DA-10-1600	Basement 03 Plan	15.10.2018 I 17.01.2020
DA-10-1700	Basement 02 Plan	15.10.2018 I 17.01.2020
DA-10-1800	Basement 01 Plan	15.10.2018 J 17.01.2020
DA-10-1900	Lower Ground Plan	15.10.2018 K 17.01.2020
DA-10-2000	Ground Floor Plan	15.10.2018 J 17.01.2020
DA-10-2100	Level 01 Plan	15.10.2018 H 17.01.2020
DA-10-2200	Level 02 Plan	15.10.2018 J 17.01.2020
DA-10-2300	Level 03 Plan	15.10.2018 J 17.01.2020
DA-10-2400	Level 04 Plan	15.10.2018 H 17.01.2020
DA-10-2500	Level 05 Plan	15.10.2018 H 17.01.2020
DA-10-2600	Level 06 Plan	15.10.2018 H 17.01.2020
DA-10-2700	Level 07 Plan	15.10.2018 H 17.01.2020
DA-10-2800	Level 08 Plan	15.10.2018 G 17.01.2020
DA-10-2900	Level 09 Plan	15.10.2018 G 17.01.2020
DA-10-3000	Level 10 Plan	15.10.2018 G 17.01.2020
DA-10-3100	Level 11 Plan	15.10.2018 H 17.01.2020
DA-10-3200	Level 12 Plan	15.10.2018 H 17.01.2020
DA-10-3300	Level 13 Plan	15.10.2018 H 17.01.2020
DA-10-3400	Level 14 Plan	15.10.2018 H 17.01.2020
DA-10-3500	Level 15 Plan	15.10.2018 H 17.01.2020
DA-10-3600	Level 16 Plan	15.10.2018 H 17.01.2020
DA-10-3700	Level 17 Plan	15.10.2018 H 17.01.2020
DA-10-3800	Level 18 Plan	15.10.2018 H 17.01.2020
DA-10-3900	Level 19 Plan	15.10.2018 H 17.01.2020
DA-10-4000	Level 20 Plan	15.10.2018 H 17.01.2020

Architectural Drawings		
All prepared by: PTW Architects		
Drawing Number	Title/Description	Revision/Date
DA-10-4100	Level 21 Plan	15.10.2018 H 17.01.2020
DA-10-4200	Level 22 Plan	15.10.2018 H 17.01.2020
DA-10-4300	Level 23 Plan	15.10.2018 H 17.01.2020
DA-10-4400	Level 24 Plan	15.10.2018 H 17.01.2020
DA-10-4500	Level 25 Plan	15.10.2018 H 17.01.2020
DA-10-4600	Level 26 Plan	15.10.2018 H 17.01.2020
DA-10-4700	Level 27 Plan	15.10.2018 H 17.01.2020
DA-10-4800	Level 28 Plan – Level 31 Plan	15.10.2018 E 17.01.2020
DA-10-5000	Level 30 – 32 and Level 38 – 42 Plan	A 17.01.2020
DA-10-5200	Level 32 Plan	15.10.2018
DA-10-5300	Level 33 Plan – Level 42 37 Plan	15.10.2018 E 17.01.2020
DA-10-6300	Level 43 – Level 45 Plan	15.10.2018 E 17.01.2020
DA-10-6600	Level 46 Plan	15.10.2018 G 17.01.2020
DA-10-6700	Level 47 Plan	15.10.2018 G 17.01.2020
DA-10-6800	Roof Top Plan	15.10.2018 F 17.01.2020
DA-20-0100	North Elevations	15.10.2018 F 17.01.2020
DA-20-0200	South Elevations	15.10.2018 F 17.01.2020
DA-20-0300	East Elevations	15.10.2018 F 17.01.2020
DA-20-0400	West Elevations	15.10.2018 E 17.01.2020
DA-30-0100	Sections	15.10.2018 H 17.01.2020
DA-30-0200	Sections	15.10.2018 I 17.01.2020
DA-40-0001	Tower 01 Façade Concept	15.10.2018 C 17.01.2020
DA-40-0002	Tower 02 Façade Concept	15.10.2018 C 17.01.2020
DA-40-0003	Tower 03 Façade Concept	15.10.2018 C 17.01.2020
DA-40-0004	Material Sample Board	15.10.2018
DA-40-0010	Signage Zone	15.10.2018

Architectural Drawings		
All prepared by: PTW Architects		
Drawing Number	Title/Description	Revision/Date
DA-50-1100	Liveable Units	15.10.2018 C 17.01.2020
DA-50-1200	Adaptable Units	15.10.2018 C 17.01.2020
DA-50-1500	Civic Plaza Awning	15.10.2018
DA-50-1600	Ground Floor Plan (Interim) at Stage 1 construction completion	15.10.2018
DA-50-1701	Civic Plaza detail – Northern entry	15.10.2018
DA-50-1702	Civic Plaza perspectives – Northern entry	15.10.2018
DA-50-1710	New Christie Lane elevation	15.10.2018 D 17.01.2020
DA-90-0020	T1 Storage schedule	15.10.2018
DA-90-0021	T2 Storage schedule	15.10.2018
DA-91-0001	GFA Diagrams	15.10.2018 J 17.01.2020
DA-91-0002	GFA Diagrams	15.10.2018 I 17.01.2020
DA-91-0003	GFA Diagrams	15.10.2018 H 17.01.2020
DA-91-0011	GBA_T2 Articulation Zone	15.10.2018
DA-93-0001	Solar sun eye views	15.10.2018 C 17.01.2020
DA-93-0002	Solar sun eye views	15.10.2018 C 17.01.2020
DA-93-0005	Solar access compliance	15.10.2018 E 17.01.2020
DA-93-0006	Solar access compliance	15.10.2018 E 17.01.2020
DA-93-0007	Solar access compliance	15.10.2018 E 17.01.2020
DA-93-0008	Solar access compliance	15.10.2018 E 17.01.2020
DA-93-0010	Shadow T2 West Façade	15.10.2018
DA-93-0020	COS – Shadow Diagrams	15.10.2018
DA-93-0021	Civic Plaza – Shadow Diagrams	15.10.2018 C 17.01.2020
DA-93-0101	Shadow Diagrams (Plan)	15.10.2018 C 17.01.2020
DA-94-0000	Cross ventilation compliance	15.10.2018
DA-97-0010	Perspective 1	15.10.2018 C 17.01.2020

Architectural Drawings		
All prepared by: PTW Architects		
Drawing Number	Title/Description	Revision/Date
DA-97-0020	Perspective 2	15.10.2018 C 17.01.2020
DA-97-0030	Perspective 3	15.10.2018 C 17.01.2020
DA-97-0040	Perspective 4	15.10.2018 C 17.01.2020
DA-97-0050	Perspective 5	15.10.2018 C 17.01.2020
DA-97-0060	Perspective 6	C 17.01.2020

4. SECTION 4.55(2) ASSESSMENT

The proposed modifications to DA 6/2018 are sought under Section 4.55(2) of the EP&A Act. The consent authority may approve an application to modify a development consent where it is satisfied that the proposed modification will satisfy the elements of Section 4.55(2). An assessment against this relevant section is provided below.

4.1. SUBSTANTIALLY THE SAME DEVELOPMENT

As per clause 4.55(2)(a) of the EP&A Act, the applicant is required to demonstrate that the proposed amendments will result in a development that is substantially the same as the development for which consent was originally granted.

The 'substantially the same' test requires a qualitative and quantitative analysis to be undertaken before and after the modification. Moto Projects (No. 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280 describes the following:

55. The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the approved development.

56. The comparative task does not merely involve a comparison of the physical features or components of the development as approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."

The proposed development will satisfy the "substantially the same development" test, as summarised below:

- The nature and essence of the development remains the same, in that it is a mixed use development and the proposed modification does not introduce any changes to the land uses currently approved for the site;
- The site coverage and overall GFA of the development remains unchanged;
- Changes to the approved apartment layouts do not represent a significant departure from the approved plans;
- The intensity of the development remains substantially the same and result in only a minor reduction of 1- and 2-bedroom apartments, and a reduction in only 1 penthouse apartment which results in a 2.6% reduction in overall apartments;
- The internal amenity of the approved apartments remains substantially the same;
- The development, as modified, marginally reduces compliance with ADG amenity criteria relating to solar access as a result of the overall consolidation of apartments;
- The external impacts (overshadowing, aural and visual privacy, wind, separation distances, landscaping, public domain interface and overall visual bulk) of the development remain substantially the same;
- Any traffic impacts associated with changes to the basement layout will be negligible;
- Changes to the construction staging will not result in additional adverse environmental impacts; and
- The proposed modifications will not be detrimental to the existing or future locality, notwithstanding the breach in the height limit for T1 and T3.

Consideration of the substantially the same development test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the modified scheme should be "essentially or materially" the same as that originally approved.

It is evident by the accompanying architectural plans prepared by PTW and within this Section 4.55(2) modification application that the physical characteristics and internal and external impacts of the modified scheme are limited in nature and therefore remain substantially the same. It is therefore considered appropriate for the proposed modifications to be assessed under Section 4.55 of the EP&A Act.

5. SECTION 4.15 ASSESSMENT

As per clause 4.55(3) of the EP&A Act, the matters referred to in Section 4.15 of the EP&A Act must be considered in the assessment of the proposed modifications. Each of the matters relevant to the proposal is assessed below.

5.1. ENVIRONMENTAL PLANNING INSTRUMENTS

The planning policies applicable to the site and development are:

- *Airport Act 1996 and Airports (Protection of Airspace) Regulations 1996*
- *State Environmental Planning Policy (Infrastructure) 2007.*
- *State Environmental Planning Policy 55 – Remediation of Land.*
- *State Environmental Planning Policy (Building Sustainability Index BASIX) 2004.*
- *State Environmental Planning Policy 65 and Apartment Design Guide (ADG).*
- *State Environmental Planning Policy No.64 Advertising and Signage.*
- *Lane Cove Local Environmental Plan 2009 (LLEP 2009).*

Consistency with the relevant controls in the above policies is discussed in the following subsections.

5.1.1. Airport Act 1996

Under Section 183 of the *Airports Act 1996*, approval is required from the Secretary of the Federal Department of Infrastructure and Regional Development for any such 'controlled activity' as listed in section 182. The consent authority is to refer the proposed modification to Sydney Airport, which would then be assessed by Airservices Australia and the Civil Aviation Safety Authority prior to determination.

In the original approval, the following condition was proposed:

44. (i) The building must not exceed a maximum height of 234.3 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.

Amended approval from the Civil Aviation Safety Authority is not required for the additional maximum height of T1 remains below the maximum height identified in the conditions of consent. Information provided in this package satisfies the requirements of the *Airports (Protection of Airspace) Regulations 1996*, including identifying the modified height of building T1.

5.1.2. State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 is to facilitate the effective delivery of infrastructure across NSW by identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure such as classified roads and prescribing consultation requirements for certain developments.

Modifications to the approved development will not produce any further implications in relation into the *State Environmental Planning Policy (Infrastructure) 2007*.

5.1.3. State Environmental Planning Policy 55 – Remediation of Land

State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) applies to the whole of the state. Clause 7(1) requires the consent authority to consider whether land is contaminated and if land can be remediated and made suitable for the proposed development prior to granting development consent to the DA.

The proposal does not impact the overall maximum depth of excavation nor the proposed remediation methodology for the approved development. As such further assessment of the proposed modification is not required in respect to *State Environmental Planning Policy 55 – Remediation of Land*.

5.1.4. State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

The BASIX Certificate (Certificate Number: 877037M_02) confirms that the proposed development meets the NSW government's requirements for sustainability. The BASIX assessment enclosed in **Appendix H** indicates that the proposal achieves the water and thermal performance ratings required. Modifications to the building's internal layout and reconfiguration of the library and carpark components of the development will not likely impact the development existing sustainability rating as outlined at **Appendix H**.

5.1.5. State Environmental Planning Policy 65 and Apartment Design Guide (ADG)

State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development) (SEPP 65) applies to development for the purpose of a building that comprises three or more storeys and for or more self-contained dwellings.

In determining a development application for residential flat development, a consent authority is to consider:

- (a) *The advice of relevant design review panel;*
- (b) *The 10 Design Quality Principles of the SEPP; and*
- (c) *The Apartment Design Guide*

The Design Verification (**Appendix A**) provided by PTW confirms that the design quality principles are achieved and demonstrates how the objectives of Parts 3 and 4 of the ADG have been achieved.

In summary, the proposal complies with the key requirements of Parts 3 and 4 of the ADG as outlined in the following table.

Table 4 – Apartment Design Guide Summary Table

ADG Objective	Approved	Proposal
Objective 3D-1 Communal Open Space	1054.7sqm (18% of entire developable site area and 32.9% of the Site A area). 53.4% of the principal useable part of the communal open space achieves 2 hours direct sun.	A reduction of communal open space to 961sqm is proposed due to the mechanical exhaust system. The proposal still results in 30% of the overall Site A area which is compliant with ADG controls.
Objective 3E-1 Deep Soil Zones	N/A	No change proposed.
3F Visual Privacy	T1 and T2: <ul style="list-style-type: none"> • 18 metres for Levels 02 to 06 • 20 metres for Level 07 • 24 metres for Levels 08 and above • 2 metres setback of upper floor of T1 to Christie Street 	The louvred T2 service platform at the end of lift lobby is to be extended 1.7m further to the east resulting in a building separation between Tower 1 and 2 of 21.58m. This is appropriate given the proposed separation is between habitable rooms/balconies, and non-habitable rooms thereby satisfying the ADG criteria.
Objective 3J-1 Car Parking	1,073 car spaces: <ul style="list-style-type: none"> ○ 542 residential spaces 	1,037 car spaces: <ul style="list-style-type: none"> ○ 542 residential spaces

ADG Objective	Approved	Proposal
	<ul style="list-style-type: none"> 406 retail car spaces (including 316 spaces dedicated to Council) 125 commercial car spaces 	<ul style="list-style-type: none"> 374 retail car spaces (including 316 spaces dedicated to Council) 121 commercial car spaces
Objective 4A-1 Solar Access	The approved development includes 70.0% of apartments receiving at least 2 hours of solar access with 11.8% receiving no solar access.	Amendments to the apartment mix result in a minor reduction in overall solar access to 65.3% of apartments receiving at least two hours of solar access with 12.0% receiving no solar access. This is due to the reduction of apartments and is addressed at Section 5.5.2 .
Objective 4B-3 Natural Cross Ventilation	The approved development provides natural ventilation to 60.3% of apartments	60.3% (no change)
Objective 4C-1 Floor to Ceiling Heights	<p>All habitable rooms: minimum ceiling height of 2.7m.</p> <p>Non-habitable rooms: 2.4m</p>	Floor to floor heights are at least 3m (3.02m) for residential levels in both towers, which can accommodate the required minimum ceiling heights
Objective 4D-1 Minimum Apartment Sizes	Consistent with ADG requirements	Consistent with ADG requirements
Objective 4D-3 Minimum Room Sizes	Consistent with ADG requirements	Consistent with ADG requirements
Objective 4E-1 Private Open Space	Consistent with ADG requirements	Consistent with ADG requirements
Objective 4F-1 Core/Circulation	Lift cores currently service a maximum 11 apartments per floor in each building	No change, generally consistent with ADG requirements
Apartment Mix	<p>Studio: 2 (0.3%)</p> <p>1 bed: 197 (30.1%)</p> <p>2 bed: 395 (60.4%)</p> <p>3 bed: 56 (8.6%)</p> <p>4 bed: 3 (0.5%)</p> <p>5 bed: (0.2%)</p>	<p>1 bed: 181 (28.4%)</p> <p>2 bed: 381 (59.8%)</p> <p>3 bed: 71 (11.1%)</p> <p>4 bed: 4 (0.6%)</p>
Objective 4G-1 Storage	Consistent with ADG requirements	Consistent with ADG requirements

ADG Objective	Approved	Proposal
Adaptable	10%	The proposed development includes a 0.5% increase in adaptable apartments.

5.1.6. State Environmental Planning Policy No. 64 Advertising and Signage

State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64) aims to ensure that advertising and signage is compatible with the desired amenity and visual character of an area and provides effective communication in suitable locations and is of high-quality design and finish. It does not regulate the content of signs and advertisements.

No modifications are proposed to the approved signage zones as part of this application.

5.1.7. Lane Cove Local Environmental Plan 2009

The *Lane Cove Local Environmental Plan 2009 (LCLEP)* is a principal environmental planning instrument governing development at the site. The relevant provisions of the LCLEP are addressed in the table below.

Table 5 – LCLEP Compliance

Section	Comment	Compliance
Zoning and Permissibility	The site is subject to a split zoning, including land zoned for both B4 Mixed Use and B3 Commercial Core. The proposed modification remains consistent with the relevant zone objectives.	YES
Clause 4.3 – Height of Buildings	Tower 1 is subject to a RL 227.4 control under the LCLEP 2009. An increase of 4.45m (RL 231.920) is proposed to support the lift overrun and plant for a higher performance lift. This is a 1.9% increase in overall height. Tower 3 has an approved height of 61.4m. The removal of L01 will result in an increase in height of 3.65m.	Minor non-compliance. The proposed increase will have negligible visual impacts (refer Section 5.5.1.3). Note: Christie Lane and Lithgow Street are not subject to maximum height of building controls.
Clause 4.4 Floor space ratio	The modification proposes the removal of L01 floor in the approved T3 design in order to create greater lobby space. The overall proposal does not result in additional GFA across the total site.	YES Note: Christie Lane and Lithgow Street do not have an FSR control.
Clause 4.6 – Exceptions to development standards.	The proposed modification to the height of T1 will exceed the approved DA by 4.52m. As this is a modification, the application does not need to specifically address Clause 4.6. An assessment of the impacts of the additional height forms part of Section 5.5 of this application.	N/A

Section	Comment	Compliance
Clause 5.3 - Development near zone boundaries	No change proposed from the approved scheme.	YES
Clause 5.10 – Heritage Conservation	The site does not include any heritage item and is not located adjacent to or in proximity to any state or locally listed heritage items. The site is not located in or adjacent to a heritage conservation area. The proposed modification will not adversely impact the significance of any heritage areas within the Lane Cove LGA.	YES
Clause 6.1 Acid Sulphate Soils	The site is not identified as being impacted by Acid Sulfate Soils.	YES
Clause 6.1A Earthworks	No additional excavation is proposed as part of this application.	YES
Clause 6.4 Environmental Protection Land	The site is not identified as environmental protection land or land identified as riparian land.	YES
Clause 6.7 – Airspace Operations	The proposed modification will be referred to the Civil Aviation Safety Authority pursuant to the <i>Airports Act 1996</i> for the proposed penetration into the Sydney Airport Limitation or Operations Surface.	YES
Clause 6.8 – Development between Christie and Lithgow Streets, St Leonards	Clause 6.8 is the site-specific clause that applies to the site the subject of this application. As demonstrated earlier in this section, the approved development complies with the total maximum FSR permitted on the site pursuant to the additional FSR awarded by this clause, while maintaining the required minimum floor space for non-residential development across the site. As a result, this application remains consistent with the clause.	YES

5.1.8. Lane Cove Development Control Plan 2010

The Lane Cove Development Control Plan 2010 (**LCDCP**) includes provisions for development within the St Leonards Centre and site-specific provisions Christie Street Precinct. The DCP amendment provided with the planning proposal applies to Part D – Commercial Development and Mixed-Use Localities.

As laid out below, the proposal retains consistency with the precinct-specific provisions of the DCP that apply to the site.

Table 6 – LDCP Compliance Table

Control	Detail	Comment	Compliance
B4 - View Sharing			
4.1 General	The sharing of all views is part of the character of Lane	View sharing has been outlined in Section 5.5.1.3	YES

Control	Detail	Comment	Compliance
	Cove and should be maintained where possible subject to how the view is obtained and whether the maintenance of such a view creates an unreasonable impost on adjoining landowners.		
B.6 Environmental Management			
6.1 Sunlight to Public Spaces	New development must allow for a min. of 2 hours solar access to at least 50% of new and existing public open areas or plazas between the hours of 11am and 2pm on 21st June.	The approved development provides a minimum of 2 hours solar access to at least 40% of the area between 11:00am and 1:00pm on June 21st. While not complying the 50% given the large extent of the plaza, high density of existing and proposed buildings on and surrounding the site, this outcome was considered appropriate. The additional height will have minimal impact on solar access due to the minor nature of the change	Minor non-compliance, negligible additional impacts from the approved development.
6.2 Wind standards for St Leonards	To ensure public safety and comfort the following maximum wind criteria are to be met by new buildings in St Leonards Centre: a) 13 metres/second along major streets and public places and 16 metres/second in all other streets.	Due to the relatively minor building height change resulting from the proposed amendments, the wind conditions observed at the trafficable ground level areas are expected to be similar to the approved development. This is further outlined in Section Error! Reference source not found. and Appendix G.	YES
Part D – Commercial and Mixed-Use Development			
1.1.4 Building Depth and Bulk	In all business zones the maximum floor plate area of any commercial building is to be 2,000sqm subject to other requirements in this DCP. The horizontal dimensions of any	The commercial building (T3) floor plate does not exceed 2,000sqm. No changes are proposed to the length of façades from the approved development.	YES

Control	Detail	Comment	Compliance
	<p>single building facade must not exceed 50m</p> <p>For mixed use developments the maximum horizontal dimension of the residential component parallel to the street frontage is to be 40m.</p>		
1.1.7 Building Design and Exteriors	<p>Floor to ceiling heights to meet Council requirements.</p> <p>Materials, colours, finishes, proportion and scale of new development should add interest to façades and the streetscape.</p>	<p>Floor to ceiling heights comply with Christie St Precinct requirements outlined below.</p> <p>Minor changes to the materials palette do not result in a change to the overall visual interest of the development. All materials and structures are to be replaced with similar products.</p>	YES
1.3 Design and Location of On-Site Parking	<p>All developments must incorporate the required car parking on-site.</p> <p>Vehicle entry should be:</p> <p>I. easily accessible and recognisable to motorists</p> <p>II. located to minimise traffic hazards and queuing of vehicles on public roads</p> <p>III. located to minimise the loss of on-street car parking, and to minimise the number of access points.</p> <p>IV. Located away from main pedestrian entries and on secondary frontages.</p> <p>V. Located having regard to any approved cycling routes.</p> <p>Residential and non-residential car parking spaces are to be physically separated.</p>	<p>Access to the proposed car parking remains consistent with the approved development and will continue to have three traffic lanes (at the property boundary) comprising:</p> <ul style="list-style-type: none"> • Single lane, two-way ramp providing access to the loading dock • Single entry lane into the public car park which also permits residential traffic to diverge into the express ramp in the evening period, and • Single exit lane from the public car park which residential traffic will merge into during the morning period. 	
B2: CHRISTIE PRECINCT			

Control	Detail	Comment	Compliance
Building Separation min – Mixed Use towers	22 metres - to other residential tower on the site. 24 metres - to buildings across road.	All buildings on site comply with the ADG building separation between the towers and adjacent development. While the building separation between T1 and T2 has decreased by 300mm, it remains compliant with the relevant control.	YES
Floor to Floor Height	Non-Residential – Ground Level: 4.8 m min. Non-Residential - each level, other than retail: 3.6 m min.	The proposed floor to floor heights exceeds the DCP provisions for non-residential floors.	YES
Uses - General	Encourage uses which operate during evening and early morning hours, such as cafes and restaurants, community facilities, gymnasiums and other facilities, to encourage activity and safety outside office hours.	No change is proposed to the approved uses.	YES
Public Car Park	The 300 car-space public car park should be located underground, and as close as practicable to the proposed supermarket.	A public carpark still forms part of the overall proposal and has been revised to result in a functional and convenient layout for the public.	YES

5.2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft environmental planning instruments applicable to the site and proposed modifications.

5.3. PLANNING AGREEMENT

The proposed modifications do not impact the terms of the Voluntary Planning Agreement (**VPA**) relating to the site and approved development.

The VPA requires a stratum lot for 316 car parking spaces to be constructed and dedicated to Council. This level of parking has been requested by Council to satisfy the parking demand generated by the proposed retail uses and residential visitors within Site A and is located in the basement parking of the site.

5.4. REGULATIONS

The application has been prepared in accordance with the relevant provisions of the *Environmental Planning and Assessment Regulations 2000*.

5.5. LIKELY IMPACTS OF THE DEVELOPMENT

The impact of the proposed modification to neighbouring sites is negligible. The internal amenity resulting from the modifications, however, results in an improved internal functioning and amenity for residents, tenants and users of the site.

5.5.1. Bulk and Scale

The external built form of the development as approved under DA 6/2018 will require modifications to the façade and general built form including:

- Increase in the T1 maximum building height by 4.52m to accommodate the extended lift overrun;
- Additional 300mm projection to the approved residential tower to the west (T2) for the enlarged service platform;
- Increase in the approved commercial tower (T3) fronting Pacific Highway by 3.65m to provide an A-grade office lobby entry;
- Replacement of support Y columns on ground floor of T3 and replacement with supporting V columns.

The impacts of the proposed amendments are outlined below.

5.5.1.1. Overshadowing

It is noted that there will be no change to impacts affecting neighbouring properties in relation to overshadowing. The building envelope, use and form remains substantially the same as the approved building envelope. All additional impacts are likely to fall onto the development as illustrated in the shadow diagrams prepared by PTW Architects enclosed in **Appendix A**.

5.5.1.2. Wind Impacts

Windtech Consultants have previously undertaken a detailed wind tunnel testing for the site as part of the original approval. A supplementary report, enclosed in **Appendix C** was prepared to assess the wind environment conditions within and around the T1, T2 and T3 tower development with reference to wind comfort and safety.

The report concludes that the increase in building height is so minor that it will not cause a measurable change in wind conditions observed at the trafficable ground level areas of the site and surrounding locality. The removal of the awning along the northern aspect of T3 is also not expected to affect the wind conditions.

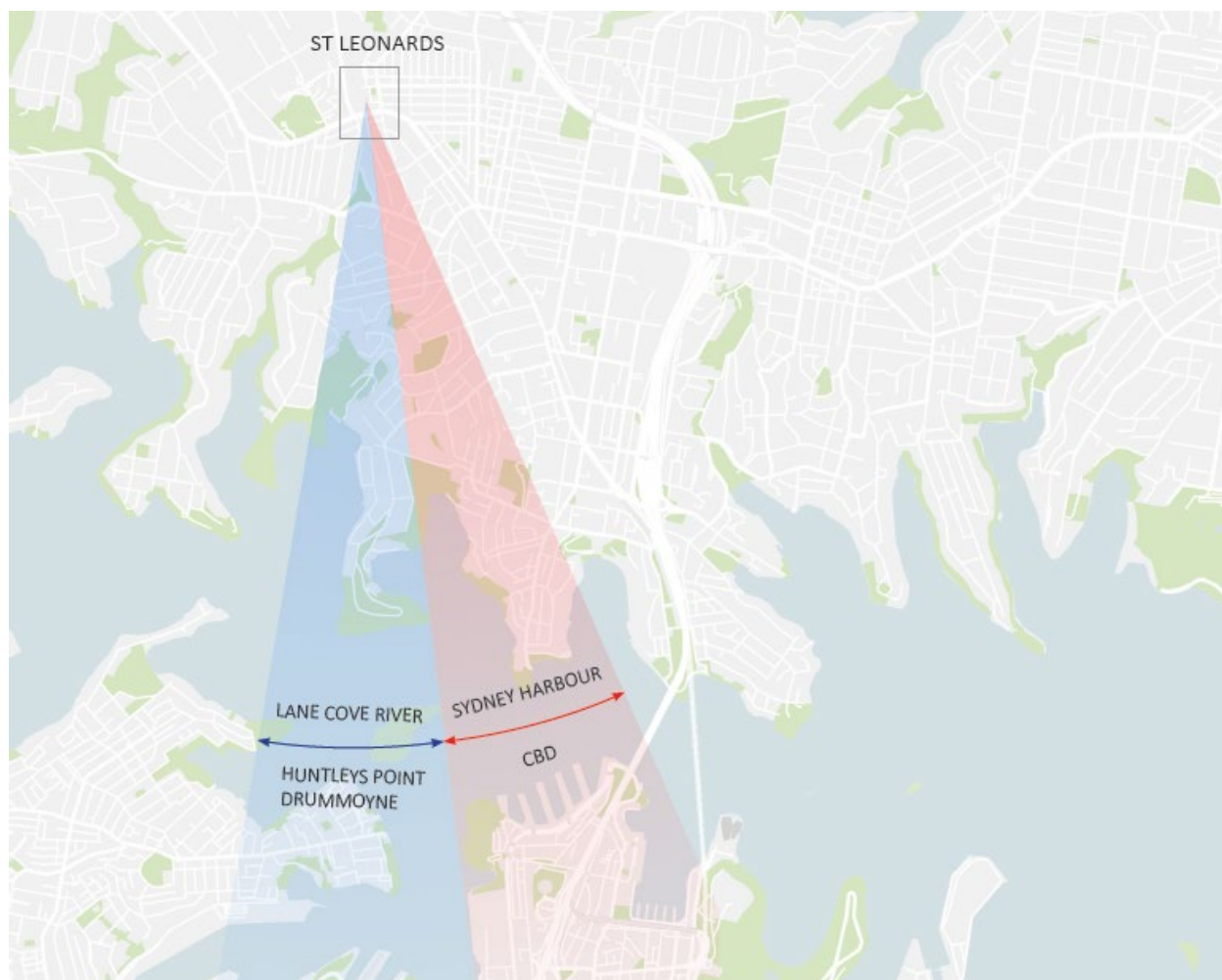
5.5.1.3. View Sharing

View sharing for current owners on the northern side of the Pacific Highway within St Leonards was acknowledged in the assessment of the approved development. Analysis of the view impacts of the proposed amendments to built form has been undertaken by PTW Architects and is enclosed in **Appendix B**. The revised analysis has re-examined the view impacts of the proposed development on the adjoining Forum East residential tower in relation to:

- Increase in the approved residential tower to the East (T1) height by 4.52m to accommodate the extended lift overrun.
- Additional 300mm projection to the approved residential tower to the west (T2) for the enlarged service platform.
- Increase in the approved commercial tower (T3) fronting Pacific Highway by 3.65m to provide an A-grade office lobby entry.

In consideration of the proposed modifications, it would be unreasonable to assume that redevelopment of the site would be prevented given the site's proximity to high frequency public transport and strategic location within Metropolitan Sydney. Further, maintaining unimpeded southern outlooks to a few residential buildings in lieu of view sharing to multiple developments is not in keeping with view sharing principles. Given the planned growth south of the Pacific Highway in St Leonards, an aim of development should be a "minimisation of impacts" on southern views, rather than the "preservation" of views.

Figure 6 – View Lines for St Leonards



Source: PTW Architects

As illustrated in **Figure 6**, Forum East has views to the west of Lane Cove River and Sydney Harbour to the south. The approved development already interrupts views to Sydney Harbour including the Opera House and Harbour Bridge. Views to the south are now impeded and are viewed between the approved T1 and T2 towers.

The proposed increase in height of T3 does not reduce any iconic views to the Opera House and Harbour Bridge but will result in a reduction of city views on Level 19 and 20 which were already interrupted by the approved development. Glimpses of the city are still available from Level 21 and 22. Despite loss of city views to Levels 19 and 20 from the Forum East, the uninterrupted vista to Lane Cove River water still remain available.

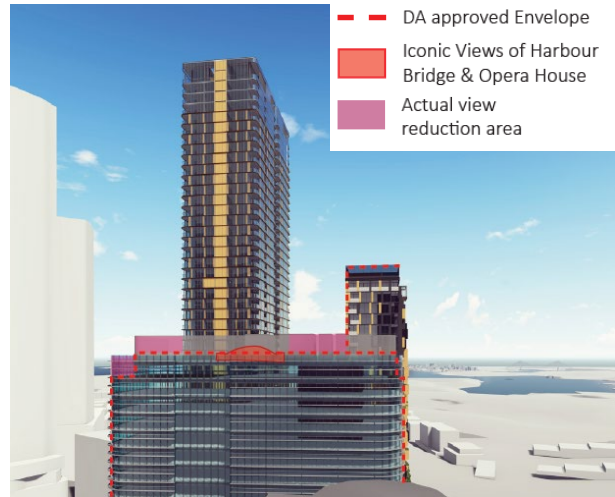
The findings recognise that the proposed modifications do result in minor additional view impact which are limited to four levels of the Forum East. View impacts are still improved under the proposed change compared to the view impacts that would result from the construction of an 18-storey building previously approved at 88 Christie Street to the rear.

Importantly, despite interruptions to views towards the Sydney CBD from the Forum East residences, the existing views the Sydney Harbour tributaries to the west of the site are maintained. These views are likely to be maintained in the medium to long-term given the low density of the existing development, and low density and building height controls of this locality. As such, despite some interruptions to the currently interrupted southern views from properties to the north of the Pacific Highway it is considered that on balance the proposal represents a positive response to view sharing principles.

Figure 7 – View Analysis



Picture 7 – View from Level 19 (Approved DA)



Picture 8 – View from Level 19 (Proposed)



Picture 9 – View from Level 20 (Approved DA)



Picture 10 – View from Level 20 (Proposed)



Picture 11 – View from Level 21 (Approved DA)

Source: PTW Architects



Picture 12 – View from Level 21 (Proposed)

5.5.1.4. Structural

Structural advice has been prepared by ABC Consultants and is enclosed in **Appendix D**. This advice states that the approved Y-columns have the potential to crack without causing any structural damage. The amended V-columns are very similar in design to the approved columns and will not result in an increase in perceived bulk and scale of the development.

The proposed revised design is supported by the Architects as maintaining the design intent and integrity of the approved development.

5.5.2. Amenity

5.5.2.1. Residential Amenity

The proposed modification includes changes to the mix and layout of approved apartments and also includes upgrades to services including better lift access between apartments and basement parking. The proposed amendments will result in the following improvements for residents:

- Reconfiguration of 1-bedroom and 2-bedroom units to increase number of 3-bedroom units which may accommodate families and larger household sizes to meet the exhibited demand from existing and future residents. It is noted that the proposed increase in 3-bedroom apartment aligns with the Council local development control (Clause 3.10(b), Part C, LCDCP) that encourages at least 10% of apartments are proposed as 3-bedroom units within residential apartment buildings. The proposal increases the proportion of 3 bedroom apartments to 11.1%
- Removal of 1 penthouse unit to produce 4 larger penthouse units offers a more spacious and luxury form of accommodation to residents.
- A Schindler 7000 lift is proposed in T1 to improve the speed and provide direct residential access to the basement parking levels.
- Solar access and natural ventilation is substantially the same as the approved development. Due to the consolidation of apartments to meet market demands, the proposed modification results in a minor numeric non-compliance with ADG solar access criteria. Overall the amenity of apartments is improved by the consolidation of apartments.

5.5.2.2. Public Amenity

The proposed relocation the public lifts and stairs to the south east corner of T1 allows access to retail and commercial premises directly from New Christie Lane. The new location is highly visible and convenient from the street and improves access between Lower Ground, Ground and Level 01.

Internal changes to the footprint of basement and ground levels enables a more rational configuration of the library and carpark layouts, offering greater amenity to users of the site.

5.5.3. Traffic, Parking and Access

It is proposed to provide a total of 1,029 car parking spaces including a stratum lot containing 316 car parking spaces to be dedicated to Council. A review of traffic generation undertaken by MLA Transport Planning, enclosed in **Appendix E**, indicates that the revised proposed development would generate less traffic than the approved scheme. As such, the revised proposed development is not expected to create any traffic impacts worse than the original approved scheme.

The reconfiguration of the basement to incorporate one construction stage allows for a more logical car parking layout. It is noted that the VPA requires a stratum lot for 316 car parking spaces to be constructed and dedicated to Council. This level of parking has been requested by Council to satisfy the parking demand generated by the proposed retail uses and residential visitors within Site A. However, it is noted that the DCP requires a parking requirement of 263 car parking spaces for Site A retail use and residential visitor parking.

The proposed car parking provision provides compliant car parking provision for the residential use as well as the retail use on Site B including the 316 car parking spaces required under the VPA. The exception is the proposed car parking provision for the commercial use where there would be a shortfall of some 82 car parking spaces. However, it is noted in the Traffic and Parking review prepared by MLA Transport Planning that the overall development parking shortfall would be 24 car parking spaces as other individual uses have slightly higher parking provision than required.

It is noted that Lane Cove Council's DCP requires commercial developments in close proximity to St Leonards Railway Station to have parking provided at a rate of one space per 100sqm which is considered excessive by MLA Transport Planning. A review of parking requirements applicable to commercial developments located in St Leonards CBD under the jurisdiction of North Sydney Council requires a maximum parking provision rate of one space per 400sqm. Similarly, in Willoughby Council's development control plan, a parking provision rate of one space per 200sqm is required.

Based on the site's close proximity to existing and future public transport hubs, namely the existing St Leonards Railway Station and bus services on Pacific Highway as well as the future Crows Nest Metro station there are clear merits to reduce parking requirements for commercial use for the site. As such, the overall proposed parking provision of 1,029 car parking spaces is considered to be satisfactory for the development.

5.6. SUITABILITY OF THE SITE

The proposed modifications to the consent will not result in any changes that would affect the suitability of the site to accommodate the development approved under DA 6/2018. The site is in close proximity to multiple public transport services and is within a locality currently under significant transformation that is capable of accommodating a development of this nature.

The proposed modifications are minor in scale, permissible with consent and will lead to the development of a building at the site which will provide greater amenity to future tenants and residents. Accordingly, the proposed modifications do not create an undesirable precedent and are considered highly suitable for the site.

5.7. SUBMISSIONS

Any submissions received by Council in response to this s4.55(2) modification application are required to be considered under Section 4.15 of the EP&A Act.

5.8. THE PUBLIC INTEREST

It is considered that the proposed modifications for consent do not contravene the public interest of the development approved under DA 6/2018. The proposed modifications are also considered in the public interest for the following reasons:

- The public library will be more accessible from the public domain.
- The layout of the carpark is less condensed and is more logical and efficient.
- The reduction in construction staging will reduce overall construction timeframes for the development and resulting impact on the surrounding locality.
- The proposed amendments will not result in any negative amenity impacts to surrounding properties, with the single exception of one level of residential apartments orientated south towards T3 which is considered acceptable in the circumstances of the site and the development.
- The proposal remains highly consistent with SEPP 65 and the Apartment Design Guide as well as the relevant provisions of the LCLEP and LCDCP.
- The proposal does not result in any unreasonable impacts to the environment or surrounding properties.

6. CONCLUSION

This Section 4.55(2) modification application has been prepared by Urbis Pty Ltd on behalf of JQZ. This application seeks to modify the conditions of consent for DA 6/2018.

The proposed modifications satisfy the objectives of the relevant design guidelines and where there are non-compliances with the height of building development standards that strict compliance with these controls is both unreasonable and unnecessary and would serve no planning purpose. The proposed development was assessed against the relevant criteria of Section 4.15 of the EP&A Act and the following observations were made:

- The development is permissible with the consent of Council pursuant to the LCLEP;
- The proposed modifications are consistent with the objectives of the zone by way of providing residential accommodation, and retail uses, a public library, and a 14-storey commercial tower in the St Leonards commercial centre as well as attractive public domain for future users;
- The proposed modifications are consistent with the objectives of the development standards for both height and density;
- The proposal achieves the amenity criteria contained within ADG, relative to ventilation, apartment size and layout, private open space and storage and is generally consistent with the requirements for solar amenity;
- The proposal is consistent with the design objectives and design controls for residential flat buildings contained in LCDCP;
- The proposed development is compatible in the site context and character of the locality with the height of the building comparable to the residential flat buildings in the immediate locality;
- The design of the buildings ensures environmentally sustainable measures are achieved and residential amenity is maximised;
- The proposed buildings will not result in unreasonable amenity impacts on adjoining properties, dwellings and the streetscape; and
- The development remains substantially the same as that to which consent was originally granted.

Based on the content contained throughout this report and the accompanying appendices, it is considered that the proposed modifications to the conditions of DA 6/2018 will result in substantially the same development as well originally approved and therefore should be approved, subject to the implementation of appropriate conditions.

DISCLAIMER

This report is dated 26 March 2020 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd's (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of JQZ (**Instructing Party**) for the purpose of SEE (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

APPENDIX A ARCHITECTURAL PLANS

APPENDIX B VIEW IMPACT ANALYSIS

APPENDIX C LANDSCAPE PLANS

APPENDIX D STRUCTURAL REPORT

APPENDIX E TRAFFIC AND PARKING REVIEW

APPENDIX F LIFT ADVICE

APPENDIX G WIND REPORT

APPENDIX H WASTE MANAGEMENT PLAN

APPENDIX I BASIX CERTIFICATE

APPENDIX J BCA AND ACCESS REPORT

