



STATEMENT OF ENVIRONMENTAL EFFECTS

Modification to SSD80675497 – Building A to provide a separate car park entry to Building A, changes to the approved basement and ramp, façade and RL changes, rearrangement of 3 bed apartment and expansion of plant and storage space within the upper ground level.

No. 3 Halifax Street, Macquarie Park (Lot 102)

Lachlan's Line North

Prepared for: Landmark Group Australia Pty Ltd

REF: M220081 (Building A – Mod to SSD80675497)

DATE: 23 April 2026





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1. Introduction

This modification report has been prepared in support of a modification to State Significant Development Application SSD-80675497 which sought consent for 21 additional residential floor levels to the already approved 25 storey residential flat building the subject of Development Consent LDA2024/0066, resulting in a 46 storey building and an additional 207 residential apartments. SSD 80675497 was submitted to the *Department of Planning, Housing and Infrastructure* (DPHI) on 22 August 2026 and was granted development consent on 25 March 2026.

The recently approved development was declared State Significant Development by a Ministerial Order (No. 2) issued on 26 February 2025 (Schedule 11) following consideration by the Housing Delivery Authority (HDA).

The current modification application has been prepared in accordance with Part 5 of the Environmental Planning and Assessment Regulation 2021 and the Department of Planning, Housing and Infrastructure '*State significant development guidelines – preparing a modification report. Appendix E to the state significant development guidelines*', dated October 2022.

This report identifies the conditions to be modified, describes the proposed modification and provides an assessment of the relevant matters for consideration as a result of the proposed changes.

The key changes relate to creation of a separate car park entry for Building A, relocation of the basement further north, basement ramp moved to suit the revised column layout and lower level façade changes to the southern elevation to reflect the entry changes. There are minor level changes and an expansion of plant and storage within the upper ground floor level. The changes have been detailed on the amended plans (Issue W) prepared by FJC Architects. The proposed changes are minor in nature and will not impact the development being substantially the same as the originally approved development and will not result in adverse environmental impacts. The modifications will allow the development to proceed in a way compatible with Building B (which adjoins Building A to the south). The modifications will consequently ensure that both Buildings A and B are able to be constructed with overlapping timeframes to enable new housing that is delivered in a timely manner to meet housing needs.

Building A is part of the progressive development of the Lachlan's Line Precinct which is a master planned community and was approved under a Concept Development Application (SSD 5093) by NSW Department of Planning, Housing and Infrastructure on 5 March 2015. Under the Concept Approval, the site was approved for subdivision to create 12 development lots, 5 public open space lots, 2 lots for future public roads, along with the delivery of infrastructure, civil works and landscaping. SSD-80675497 addressed the ways in which Building A is compatible with the development history of SSD 5093.

This Statement of Environmental Effects (SEE) has been prepared on behalf of the applicant, Landmark Group Australia Pty Ltd. The application applies to Lot 102, in Deposited Plan 1224238 being No. 3 Halifax Street, Macquarie Park.

This statement addresses the planning issues associated with the modification application and specifically examines the likely impact of the development on the environment in accordance with the requirements of Sections 4.15 and 4.55 of the Environmental Planning & Assessment (EP&A) Act, 1979 and the relevant applicable State and Local Environmental Planning Instruments, Policies and Guidelines. This statement describes the amendments sought, the likely impacts of the changes including mitigation and management measures for development outcomes which will be substantially the same as, or superior to, those anticipated from the original approved development.



2. Site Analysis and Context

2.1 THE SITE

The site is legally identified as Lot 102 DP 1224238 Lachlan's Line, Macquarie Park. The street address is 3 Halifax Street, Macquarie Park (the site). The site is located within the Lachlan's Line Precinct, which was approved under a Concept State Significant Development Application (SSD 5093). **Figure 1** shows the site in the context of the Lachlan's Line Precinct.



Figure 1: Aerial image of the subject site (outlined in red) and surrounds including the remainder of the Lachlan's Line Precinct (outlined yellow and white). (Source: Urban Design report FJC Studio)

Lot 102 is irregular in shape and has an area of 6,276 square metres. The site has a frontage of approximately 102 metres to Halifax Street, a northern boundary of 58.525 metres and a southern boundary of 63 metres. There is a significant fall of approximately 9 metres from the south-eastern corner of the site to the north-western corner.

Site works have commenced with Building B under construction. Previous demolition, remediation, earthworks and public domain works have been completed in accordance with SSD 5093. There is a sediment pond at the northern end of the site. There is limited vegetation across the majority of the site. The site is served by a driveway from Halifax Street at the site's northern end which provides access to the development site.

2.2 SURROUNDING DEVELOPMENT

The site's eastern boundary is bordered by the M2 Motorway. The surrounding locality has numerous transport connection routes with local bus stops, metro stations and classified roads within walking distance connecting the site to surrounding localities. The site's western boundary interfaces Halifax Street and a Linear Park constructed as part of SSD 5093.



Development of Lot 102 is consistent with the approved master planned area of Lachlan's Line. Other nearby developments include No. 17 Halifax Street south of the subject site and development application at No. 5 Halifax Street, Macquarie Park which was granted development consent by the JRPP on 28 July 2023 for *'Earthworks, removal of trees and the construction of three residential flat buildings (Building 1 x 29 storeys, Building 2 x 6 storeys and Building 3 x 6 storeys) containing a total of 304 units, comprising five basement parking levels and total of 299 car parking spaces'* (LDA2022/0390). The development at No.5 Halifax Street is well advanced as shown below at **Figure 2**, with completion expected in 2026.



Figure 2: No. 5 Halifax Street, south of the subject site (source: Google Maps view from M2 Motorway - July 2025)



3. Details of the Proposed Modification

3.1 SITE HISTORY AND APPLICATION BACKGROUND

The following is a summary of the development history of the site.

Date	Application description
5 March 2015	A Concept State Significant Development (SSD5093) consent was granted by the Department of Planning and Environment (DPE) for the North Ryde Station Precinct. This approval included: Concept Proposal • Subdivision of the site into development lots, public open space lots and public road lots. • Allocation of a maximum GFA to each of the development lots (total of 238,919m² across the site). • Infrastructure, civil works and landscaping. Stage 1 Development Works • Site preparation works including demolition, remediation and rehabilitation, bulk earthworks. • Super lot subdivision to create lots for public roads, public reserves and development. • Civil and public domain works including road and intersection construction, open space establishment and embellishment, pedestrian pathways and cycleways, drainage, public domain works and services infrastructure. • Construction of the Delhi Road pedestrian bridge.
23 October 2015	Modification 1 to the SSD approval was granted by DPE for changes to the alignment of an existing gas main.
12 September 2016	Modification 2 to the SSD approval was granted by DPE for the following elements: • To clarify the use of bonus floor space where affordable rental housing is provided. • To alter the final staging of the works. • To incorporate security bonds arrangements. • To allow additional works to enable the construction of the Delhi Road pedestrian bridge.
25 July 2017	Modification 3 to the SSD approval was granted by DPE for the following element: • Changes to Condition E4 to alter the timing for the completion and dedication of the pedestrian and cycle bridge.
25 September 2018	Modification 4 to the SSD approval was granted by DPE for the following elements: • Construction and use of a temporary pre-assembly shed for on-site assembly of the pedestrian bridge. • Removal of an additional 22 trees located in the construction footprint of the approved pedestrian bridge. • Changes to Condition E4 to alter the timing for the completion and dedication of the pedestrian and cycle bridge.
7 August 2023	Modification 5 to the SSD approval was granted by DPE to increase the maximum GFA for Lot 117 only for future development which provides 100% affordable housing. The approval permits a total GFA of 10,263m², up from the originally approved 5,413m² for this lot on the basis of the provision of 100% affordable housing.
8 July 2024	Modification 6 to the SSD consent was approved by DPE and results in the following modification relating to the subject site:



	Any DA relating to Lot 102 (3 Halifax Street), must provide 969.6m2 of affordable housing will be secured, delivered and maintained to the satisfaction of the consent authority for 15 years. Where the GFA represents a part dwelling, the provision must be rounded up to provide a whole dwelling.
26 November 2024	Development consent Nos. LDA2024/0066 and LDA2024/0103 were granted by the Sydney North Planning Panel for the construction of Buildings A and B (residential flat buildings) on the subject site.
22 August 2025	SSD80675497 – Amending DA to an approved local development application for a residential flat building, increasing the height from 24 to 46 storeys, including associated basement parking changes, construction of a Mews Road and external landscaping works. Development Consent dated: 25/3/2026

Specific to Lot 102 are the following approvals:

Date	Application
25 March 2025	Mod2025/0018 - S4.55(1A) Modification to LDA2024/0066 - Delete the Torrens title subdivision from the consent, amendment of Condition No.22 to defer Section 7.11 payment and amendment of wording of Condition No.56 Development Consent dated: 31/3/2025
25 March 2025	LDA2025/0051 – Two lot Torrens title subdivision Development Consent dated: 8/04/2025

Separate applications have been lodged in relation to Building B which sits to the south of Building A. The current modification application to SSD80675497 will allow development to proceed on Building A while the detailed design for Building B continues to be resolved.

3.2 OVERVIEW OF APPROVED DEVELOPMENT

State Significant Development (SSD-80675497) was granted development consent on 25 March 2026 for 21 additional residential floor levels to the already approved 25 storey residential flat building the subject of Development Consent LDA2024/0066, resulting in a 46 storey building and an additional 207 residential apartments at Lot 102, DP 1224238, 3 Halifax Street, Macquarie Park.

The recently approved development was declared State Significant Development by a Ministerial Order (No. 2) issued on 26 February 2025 (Schedule 11) following consideration by the Housing Development Authority (HDA).

3.3 PROPOSED MODIFICATION

The proposed modifications are sought to provide for improved design, to allow commencement of Building A in advance of Building B and to address relevant conditions of consent for minor adjustments to the design and layout which have been identified in design refinement of Building A and Building B. The changes are summarised as follows:

Drawing Number	Location	Modifications
DA-2OLG-A	Lower Ground	- A separate carpark entry provided for Building A - RL of lobby reduced to RL38.2
DA-B1-A DA-B8-A	Basement 2-8	Extent of Building A basement moved North



		Basement ramp moved to suit revised support column layout
DA-3000-A	Southern Façade	Lower portion of facade changed to match above
DA-3000-A DA-30001-A	North, south east and west Elevations	RL changes
DA-2OUG	Upper Ground	- Expansion of plant / storage space - Replanning of 3 Bed apartment - New Fire Egress layout

The main change relates to the new car park entry to Building A which is illustrated below in **Figure 3** and **Figure 4**.



Figure 3: Approved ground floor plan Building A (LDA2024/0066)



Figure 4: Proposed ground floor plan Building A (new car park entry)

The new car park entry to Building A will result in minor changes to the arrangement of deep soil and landscaped area adjacent to the building forecourt although the amount of deep soil provided within the site does not change (7%) as a result of the reconfigured access.

The children's playground at Level 7 was removed as part of SSD80675497 with a condition of consent (Condition A17) included for payment of a monetary contribution to Council of \$758,722.00 for the purpose of embellishing 3000m² of recreation area within the area to which the Macquarie Park Corridor Section 7.12 Local Infrastructure Contributions Plan 2025 applies.

The separate pedestrian entry and forecourt remains generally as approved as illustrated in the approved landscape analysis diagram compared to the proposed landscape analysis diagram provided in **Figure 5** below. The majority of changes occur internally as the lobby and gathering area are shifted to the west resulting in the loss of one (1) lower ground floor apartment (see Figure 3 and 4 above) and the provision of 1 x one bedroom apartment instead of a 2 bedroom apartment. An upper ground floor apartment is also removed to provide a void above the lobby, achieving a light filled and inviting space for resident access and gathering.

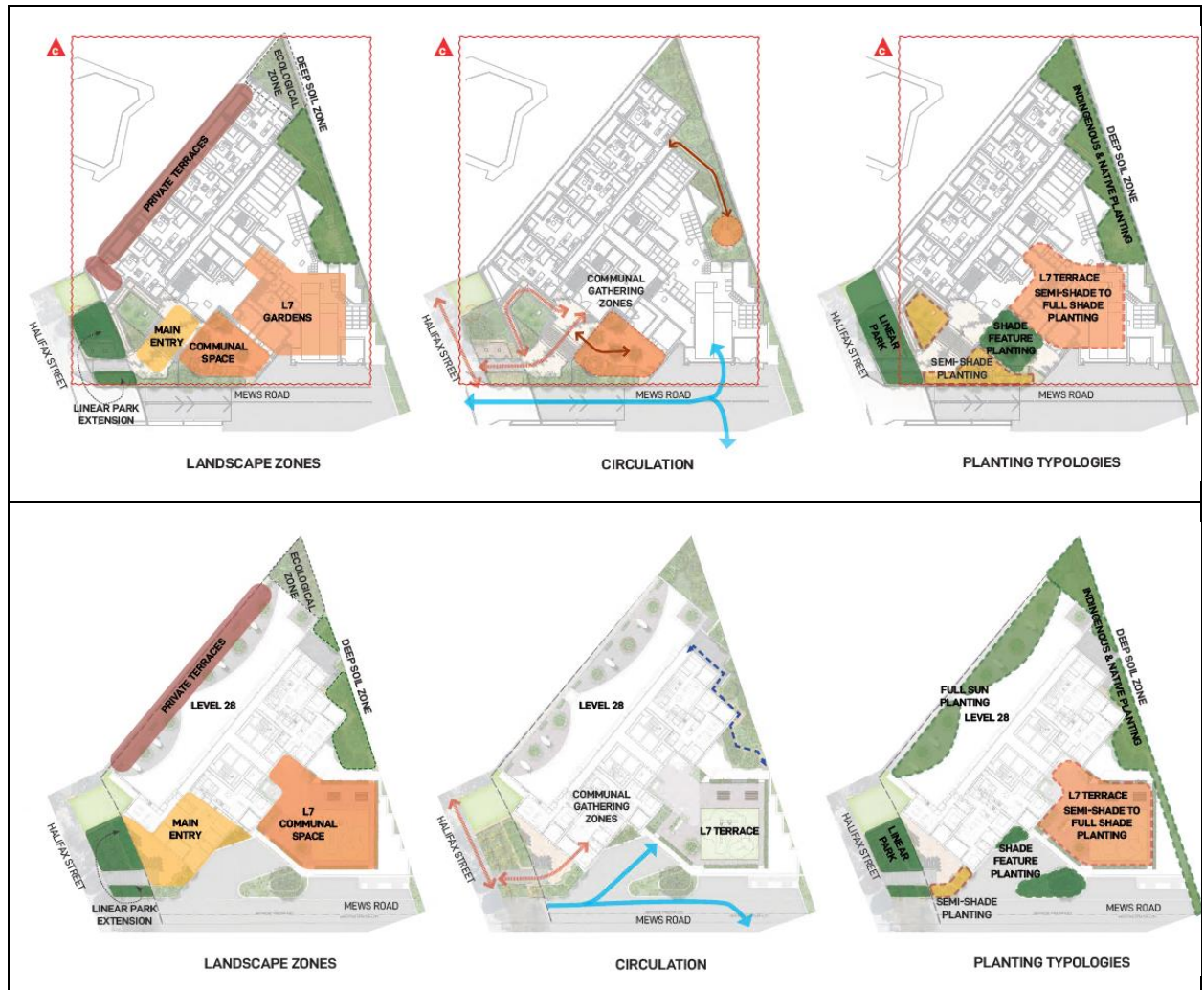


Figure 5: Approved landscape design and proposed landscape design with new entry to Building A

The amendments will provide a separate vehicular access to the approved basement levels directly below Building A, removing reliance on the basement construction and basement access/egress already approved via Building B.

As a result of the new car park entry the other main changes occur to the southern elevation as illustrated below at **Figure 6** and **Figure 7**.

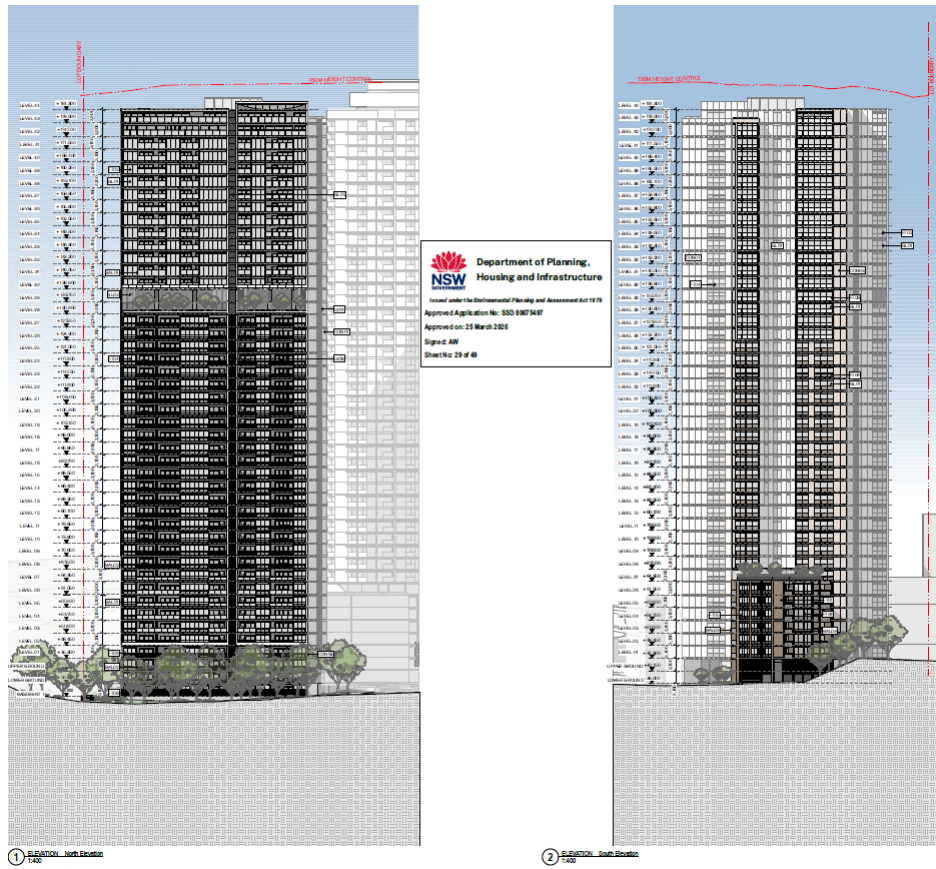


Figure 6: Approved northern and southern elevations - Building A (SSD80675497)

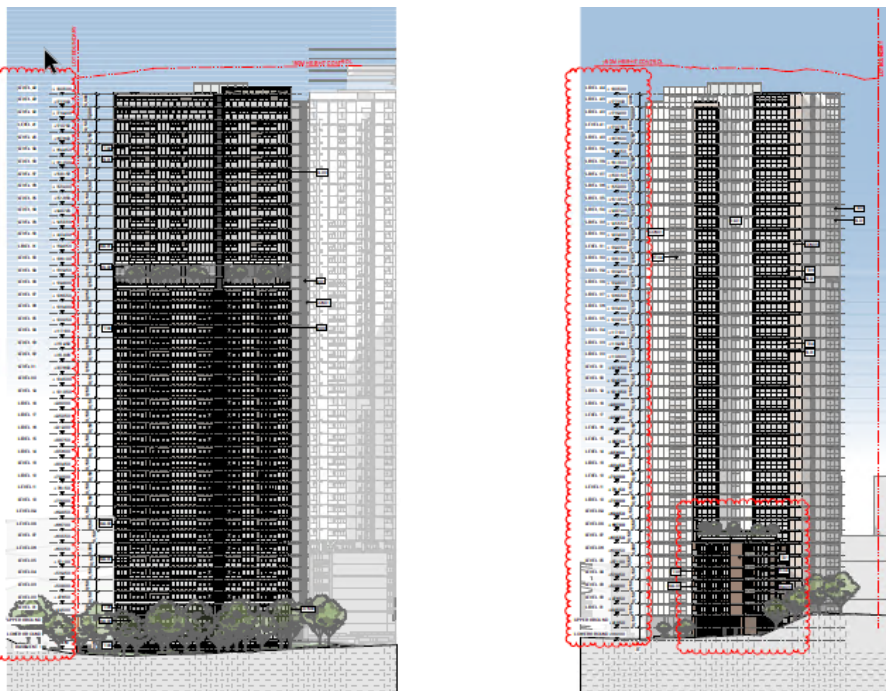


Figure 7: Proposed northern and southern elevations - Building A (new car park entry)



The proposal does not significantly alter the development other than a minor reduction in the number of apartments (437 to 434), following the lower and upper ground level changes. However, the modification will expedite the construction of Building A ahead of Building B, which has not been finalised, this in turn will deliver much needed housing more quickly to meet demand. The amendments do not alter the approved building height or FSR. There is a slight adjustment to car parking layout and the total number of car parking spaces following provision of a new vehicle entry. There is a minor shift in the basement footprint to the north and the provision of more car share spaces to meet the demand for alternative modes of travel. Below at **Figure 8** is the parking rate approved as part of SSD 80675497.

Table 8 shows the maximum permissible residential car parking requirement for the development under application of the NRSP DCP 2013 and the proposed provision in response.				
Table 8: Car Parking Requirements & Provision				
TYPE	NO.	DCP PARKING RATE	DCP REQUIREMENT ¹	PROPOSED PROVISION
One Bedroom	130 units	0.6 space / unit	78	386
Two Bedroom	245 units	0.9 space / unit	220	
Three Bedroom or more	63 units	1.4 spaces / unit	88	
Visitor	438 units	0.1 spaces / unit	44	38
TOTAL			430	424
¹ NRSP DCP 2013 is silent on rounding and so reference is made to RDCP 2014, which requires car parking calculations resulting in fractions be rounded up to the nearest whole number.				

Figure 8: Approved car parking rate (Source: PDC Consultant – Traffic Impact Assessment)

The amended proposal will provide a total of 422 car parking spaces to be allocated as follows:

Residential parking = 384 car parking spaces (including 4 car share spaces)

Visitor = 38 car parking spaces

This represents a reduction of two (2) on site car parking spaces. Total car parking spaces remain below the maximum car parking permitted on the site. The proposal continues to be in line with Council's DCP requirement and objectives because the parking to be provided still aligns with the maximum DCP rate, provides required resident and visitor spaces and meets car share parking.

The modification application is supported by updated architectural plans prepared by *FJC Architects*, as well as the following sub-consultant reports:

- Final traffic report prepared by *PDC Consultants* dated 4 March 2026 (Ref:0945r16v01);
- Dewatering plan and groundwater report prepared by *Morrow Geotechnics* dated 23 February (ref: P3006_18–P3006_21); and
- BCA letter of compliance prepared by *Jensen Hughes* dated 10 April 2026 (ref: 118260-BCA-BLD A-r4 MOD).

3.1.2 CONDITIONS OF CONSENT

The list of conditions of consent to the modified are detailed below and summarised as follows:

- Description of development; and
- Schedule 2, Part A 'General Conditions', Terms of Consent, **Condition A1** and Part B 'Prior to Issue of Construction Certificate' **Condition B8** Landscaping are proposed to be amended to allow the orderly progress of site works.



DESCRIPTION

Construction of a residential flat building (Building A) to 46 storeys, containing 434 apartments over 8 levels of basement carparking accommodating 422 car spaces and associated works'.

PART A GENERAL CONDITIONS (AMEND)

ADMINISTRATIVE CONDITIONS

TERMS OF CONSENT

A1. The development must be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in accordance with the EIS, the Applicant's response to submissions, and the Applicant's response to requests for further information; and
- (c) in accordance with the approved plans in the table below, as modified by the conditions of this consent:

We request that the following conditions be modified as shown below:

Architectural drawings prepared by fjstudio			
Drawing Number	Rev	Name of Plan	Date
DA-1000	01 02	Cover Sheet	3/7/2025 27/02/2026
DA-1001	01	Notification Plan	9/7/2025
DA-1200	01 02	Site Plan/Site Analysis	3/7/2025 27/02/2026
DA-12LGS1	01 02	Staging Plan 1	9/7/2025 27/02/2026
DA-12LGS2	01 02	Staging Plan 2	9/7/2025 27/02/2026
DA-20B1-A	01 02	Basement 1	3/7/2025 27/02/2026
DA-20B2-A	01 02	Basement 2	3/7/2025 27/02/2026
DA-B8-A	01 02	Basement 2 3-8	3/7/2025 27/02/2026
DA-20B7-A	01	Basement 7	3/9/2025
DA-20LG-A	01 02	Lower Ground Level	3/7/2025 27/02/2026
DA-20UG-A	01 02	Upper Ground Level	3/7/2025 27/02/2026
DA-2001-A	01 02	Level 1-6	3/7/2025 27/02/2026
DA-2007-A	01 02	Level 7	3/7/2025 27/02/2026
DA-2008-A	01 02	Level 8-9	3/7/2025 27/02/2026
DA-2010-A	01	Level 10	27/02/2026



DA-2011-A	04 02	Level 11-12	3/7/2025 27/02/2026
DA-2013-A	04 02	Level 13-27	3/7/2025 27/02/2026
DA-2028-A	04 02	Level 28	3/7/2025 27/02/2026
DA-2029-A	04 02	Level 29	3/7/2025 27/02/2026
DA-2030-A	04 02	Level 30-41	3/7/2025 27/02/2026
DA-2042-A	04 02	Level 42	3/7/2025 27/02/2026
DA2043-A	04 02	Level 43	3/7/2025 27/02/2026
DA-2044-A	04 02	Level 44	3/7/2025 27/02/2026
DA-2045-A	04 02	Roof	3/7/2025 27/02/2026
DA-2200-A	04 02	Adaptable Units	3/7/2025 27/02/2026
DA-2201-A	04 02	LHA Silver Level Apartments	3/7/2025 27/02/2026
DA-2300-A	04 02	Cross Ventilation	3/7/2025 27/02/2026
DA-2400-A	04 02	Solar Compliance	3/7/2025 27/02/2026
DA-2500-A	04 02	Shadow Diagrams	3/7/2025 27/02/2026
DA-2501-A	04 02	Sun Eye Views	3/7/2025 27/02/2026
DA-2600-A	04 02	Communal Open Space	3/7/2025 27/02/2026
DA-2700-A	04 02	Deep Soil Zone	3/7/2025 27/02/2026
DA-2800-A	04 02	GFA Diagram	3/7/2025 27/02/2026
DA-2900-A	04 02	Material Board	3/7/2025 27/02/2026
DA-3000	04 02	North and South Elevations	3/7/2025 27/02/2026
DA-3001	04 02	East and West Elevations	3/7/2025 27/02/2026
DA-4001	04 02	Section 1	3/7/2025 27/02/2026
DA-4002	04 02	Section 2	3/7/2025 27/02/2026
Landscape Plans Prepared by Ground Ink			
Page 2-18 (excluding 7,10, and 11)	€ H	Ground Ink Landscape DA Documentation Building A Lot 102	4/07/2025 16/4/2026
7	Ð H	Landscape Master Plan: Ground Floor	16/4/2026
10	Ð H	Ground Floor Planting Plan	16/4/2026
11	Ð H	Public Domain Detail Plan	16/4/2026





Dwg No. LDA-901	Rev A	Colourbond Fence Detail	16/4/2026
Integrated Water Management Report prepared by SGC			
Page 29-35	B C	Integrated Water Management Report ref 20230192-R03_IWMP [B][C]	27 November 2025 26 February 2026
S06-SW201	P01	Erosion and Sediment Control Plan and Details	3 July 2025

Reason for amendment: To ensure the changes detailed on the amended plans are reflected in the approved Architectural drawings, Landscape plans and Integrated Water Management report.

PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

PRE-CONSUTRUCTION REQUIREMENTS

LANDSCAPING (AMEND)

B8 Prior to the issue of the first relevant Construction Certificate for above ground works, the Applicant must submit to the Certifier a detailed Landscape Plan which:

- (a) is consistent with the landscape plans prepared by **Ground Ink**, Revision ~~C~~ **H** and Dwg No. LDA-901, Rev A, Colourbond Fence detail dated ~~04/07/2025~~ **16.04.2026**.
- (b) includes details of tree planting;
- (c) includes details of the location, species, maturity and height at maturity of plants to be planted on-site;
- (d) demonstrates adequate drainage and watering systems;
- (e) includes details of plant maintenance and watering for the first 12 months; and
- (f) includes a commitment to replace plants with the same species if any plant loss occurs within the maintenance period.

~~Revision D is to be used in respect of pages 7 (Landscape Master Plan), 10 (Ground Floor Planting) and 11 (Public Domain Plan).~~

Reason for amendment: To ensure the landscape plan is consistent with the approved Architectural plan.

All other conditions of consent will remain and are not proposed to be amended or deleted in accordance with section 4.17 of the EP&A Act.

4. Environmental Planning Assessment

4.1 SECTION 4.55(1A)

Section 4.55 of the EP&A Act contains provisions relating to the modification of a development consent. Section (1A) relates to "Modifications involving minimal environmental impact" and states the following:



(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) *it is satisfied that the proposed modification has minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is the same or substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (2) do not apply to such a modification.

Modification Principles Established by the Courts

The traditional ‘test’ as to whether or not a development as modified will be “substantially the same” development as that originally approved was applied by J Stein and the Court of Appeal in *Vacik Pty Limited v Penrith City Council* [1992] NSWLEC 8 and endorsed by J Bignold in *Moto Projects (No 2) Pty Ltd v North Sydney C* [1999] NSWLEC 280.

J Stein stated in the *Vacik* case: “*In my opinion ‘substantially’ when used in the section [s102, the predecessor of s96] means essentially or materially achieving the same essence*”.

J Bignold expressed in the *Moto* case: “*The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified ... not merely a comparison of the physical features or components of the development ... rather ... 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).*”

J Bignold came to deal with the matter of “substantially the same” again in *Tipalea Watson Pty Limited v Kurringai Council* [2003] NSWLEC 253. From this Judgement, one can distil a list of matters or ‘tests’ to consider, being whether the modification involves the following:

- (a) *significant change to the nature or the intensity of the use;*
- (b) *significant change to the relationship to adjoining properties;*
- (c) *adverse amenity impacts on neighbours from the changes;*
- (d) *significant change to the streetscape; and*
- (e) *change to the scale or character of the development, or the character of the locality*



In 2015, the principles regarding Section 96(2)(a) (now Section 4.55(2)(a)) were summarised in *Agricultural Equity Investments Pty Ltd v Westlime Pty Ltd (No 3) [2015] NSWLEC 75* where Pepper J set out the legal principles that apply as follows:

The applicable legal principles governing the exercise of the power contained in s 96(2)(a) of the EPAA may be stated as follows:

- 1. first, the power contained in the provision is to “modify the consent”. Originally the power was restricted to modifying the details of the consent but the power was enlarged in 1985 (North Sydney Council v Michael Standley & Associates Pty Ltd (1998) 43 NSWLR 468 at 475 and Scrap Realty Pty Ltd v Botany Bay City Council [2008] NSWLEC 333; (2008) 166 LGERA 342 at [13]). Parliament has therefore “chosen to facilitate the modification of consents, conscious that such modifications may involve beneficial cost savings and/or improvements to amenity” (Michael Standley at 440);*
- 2. the modification power is beneficial and facultative (Michael Standley at 440);*
- 3. the condition precedent to the exercise of the power to modify consents is directed to “the development”, making the comparison between the development as modified and the development as originally consented to (Scrap Realty at [16]);*
- 4. the applicant for the modification bears the onus of showing that the modified development is substantially the same as the original development (Vacik Pty Ltd v Penrith City Council [1992] NSWLEC 8);*
- 5. the term “substantially” means “essentially or materially having the same essence” (Vacik endorsed in Michael Standley at 440 and Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280; (1999) 106 LGERA 298 at [30]);*
- 6. the formation of the requisite mental state by the consent authority will involve questions of fact and degree which will reasonably admit of different conclusions (Scrap Realty at [19]);*
- 7. the term “modify” means “to alter without radical transformation” (Sydney City Council v Ilene Pty Ltd [1984] 3 NSWLR 414 at 42, Michael Standley at 474, Scrap Realty at [13] and Moto Projects at [27]);*
- 8. in approaching the comparison exercise “one should not fall into the trap” of stating that because the development was for a certain use and that as amended it will be for precisely the same use, it is substantially the same development. But the use of land will be relevant to the assessment made under s 96(2)(a) (Vacik);*
- 9. the comparative task involves more than a comparison of the physical features or components of the development as currently approved and modified. The comparison should involve a qualitative and quantitative appreciation of the developments in their “proper contexts (including the circumstances in which the development consent was granted)” (Moto Projects at [56]); and*
- 10. a numeric or quantitative evaluation of the modification when compared to the original consent absent any qualitative assessment will be “legally flawed” (Moto Projects at [52]).*

In the recent case of *Arrage v Inner West Council [2019] NSWLEC 85*, Preston J found that there was no legal obligation to consider the circumstances in which the development consent was granted when comparing the approved development and the proposed modified development, or to consider the material or essential elements of the original development consent, neither of which are mandatory relevant matters. Rather it is the statutory provision of Section 4.55 which provides the relevant test.

Whether or not there will be increased environmental or neighbourhood amenity impacts under a proposed modified development is not a consideration as to whether or not a modification proposal is substantially the same under Section



4.55 of the EP&A Act. Authority for this position is set out in a decision of Talbot J in *Wolgan Action Group Incorporated v Lithgow City Council* [2001] NSWLEC 199 [43] in which he provides:

“Even if the present applicant is correct in that there will be a significant increase in the environmental impact ... that, nevertheless, does not necessarily preclude a conclusion that the development, to which the consent as modified relates, is substantially the same development as that already permitted. The extension ... alone does not change the inherent character of the development itself. There may be some additional environmental impact but that is a matter to be considered as part of the deliberations on the merits.”

Modification Principles Applied to the Proposal

With consideration to the tests identified in *Tipalea Watson Pty Limited v Kurringai Council*, the proposal as modified is limited to a new car park entry to Building A and associated adjustments to the ground floor plan and landscaping, extent of basement footprint moved north, minor façade changes to match the new car park entry, expansion of plant/storage spaces and minor RL changes throughout the building.

These modifications do not impact upon the nature of the development and a new development application is not required as the modified development will be substantially the same as that which has been approved under SSD-80675497. The modification subject to this application does not alter the use of the site or the external dimensions, form or presentation of Building A recently approved, noting that the height, FSR and building footprint remain generally as approved.

As noted in *Wolgan Action Group Incorporated v Lithgow City Council*, an increase in environmental impacts is not a consideration as to whether or not a modification proposal is substantially the same. Nonetheless, in our view, the impact of the proposed modifications is negligible as the approved building envelope remains generally the same in terms of design and character, landscaping, privacy and solar access with only minor changes occurring within the basement levels and to southern façade within the lower portion of the building and a reduction in car parking spaces by 2. This does not result in any noticeable physical or functional changes to the approved development other than to achieve compatibility with Building B.

Finally, *Moto Projects (No. 2) Pty Limited v North Sydney Council* [1999] NSWLEC 280; (1999) 106 LGERA 298, which outlines principles for determining whether a s4.55(1A) application is ‘substantially the same’ as an originally issued development consent. The assessment of ‘substantially the same’ needs to consider qualitative and quantitative matters.

In terms of a quantitative assessment, the proposed modification results in the loss of one (1) ground level apartment and two (2) car parking spaces. The proposal retains 437 apartments of various layouts and sizes within a 46 storey building and 422 car parking spaces over 8 basement levels, with all aspects of the development statistics relating to the height, FSR, above-ground setbacks, communal open space etc remaining generally the same and in accordance with SSD80675497. The reduction in car parking spaces by two (2) spaces is addressed specifically in the Traffic report prepared by *PDC Consultants* dated 4 March 2026.

In terms of qualitative assessment, the residential flat building use, layout and design will not change and the external appearance and materials will be the same as those approved. The changes seek to ensure the construction of Building A can proceed in advance of Building B because the final design of Building B is still being refined and pending submission.

There are no amenity impacts associated with the minor changes to the existing approval, as the building, layout and design will remain generally unchanged. There is no increase to the building height or FSR and only minor changes to the building facade.



As such, the modification will not give rise to significant material impacts in terms of amenity, but rather will enable the development to proceed in advance of Building B being finalised. Other provisions are already in place to allow Building A and Building B to proceed at slightly different construction timelines. Prior to this modification, Building A and B shared a car park entry/exit via Building B and carparking levels and spaces were to be allocated through a stratum subdivision. This amended proposal allows each of Building A and Building B vehicle access and egress to function independently. Previously approved shared circulation and allocation of parking within the basement levels of both Building A and Building B is retained and shared in accordance with the current consents.

It is therefore demonstrated that, in terms of a quantitative and qualitative assessment, the proposed modification results in a development which is substantially the same as originally approved. The proposed development will have minimal environmental impacts on the locality and the application is appropriately categorised as a S4.55 (1A) application.

4.2 STATUTORY AND POLICY COMPLIANCE

4.2.1 State Environmental Planning Policy (Planning Systems) 2021

The original proposal was declared State Significant Development under section 4.36 the EP&A Act as it satisfied the criteria under section 2.6 of State Environmental Planning Policy (Planning Systems) 2021 being infill affordable housing that includes residential development with an estimated cost of more than \$30 million under Schedule 1, clause 26A.

This modification seeks approval for various minor changes to this approval to progress the delivery of this development.

4.2.2 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land within State Environmental Planning Policy (Resilience and Hazards) 2021 applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 4.6 of SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to carrying out of any development on that land and if the land is contaminated, it is satisfied that the land is suitable in its current state or will be suitable after remediation for the purpose for which the development is proposed to be carried out.

Development Application LDA2024/0066 was supported by a Preliminary Site Investigation Report (Revision 4), prepared by EP Risk dated 22 March 2024, which determined that the site can be made suitable for high-rise residential land use in accordance with this SEPP. The consent authority was satisfied that the site was capable of residential development and Condition No. 1 of Development Consent LDA2024/0066 requires the development to be carried out in accordance with the PSI. On this basis and given that the proposal seeks only to make changes to minor elements of the existing approved building, the consent authority can be satisfied that the site can be made suitable for the proposed use.

4.2.3 State Environmental Planning Policy (Housing) 2021

The principles of State Environmental Planning Policy (Housing) 2021 (Housing SEPP) are to enable diverse housing types and in particular encourage the delivery of housing with a reasonable level of amenity that meets the needs of more vulnerable members of the community including very low to moderate income households, seniors and people with a disability. The Housing SEPP seeks to place such housing in locations that efficiently use infrastructure and services, minimise impacts to climate and the environment and mitigate the loss of existing affordable housing.



The proposed modification makes a minor adjustment in the number of apartments from 437 to 434, however, the changes will ensure the approved housing is delivered more efficiently as the new car park access will allow Building A to be developed ahead of Building B which is not yet finalised. The minor changes including a separate car park entry and minor façade changes at the lower level will not significantly impact the existing consent but will ensure the timely delivery of housing in a highly accessible location as encouraged by the SSD approval process.

4.2.4 State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 applies to the development and aims to encourage sustainable residential development. A BASIX certificate accompanied the original development application and demonstrated that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets. The modification does not impact the approved BASIX certificate.

4.2.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

Development with Frontage to a Classified Road Clause

2.119 Development with frontage to classified road provides that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land.

The site has a frontage to the M2 Motorway, however, the proposed amendment does not alter access to the site (which is not via a classified road). The adjusted carpark entry is from the Mews Road which connects to Halifax Street and this is not a classified road.

Clause 2.120 Impact of road noise or vibration on non-road development

The site is adjacent to the M2 Motorway which is a State Classified Road. An Acoustic Assessment was prepared by Acoustic Dynamics and submitted with the original development application. The report outlined recommendations to ensure compliance with the appropriate noise levels for residential development, measures relating to the mechanical plant, air conditioning units, kitchen/toilet exhaust fans, residential lifts and car park roller door shutter. A condition is retained on the original development consent requiring compliance with the measures outlined in the acoustic report and conditions in SSD 80675497 do not require modification.

Clause 2.122 Traffic-generating development

Under this clause, the consent authority must not grant consent to development on land for residential accommodation for 75 or more dwellings or 50 car parking spaces where the site has access to a classified road unless it is satisfied that:

- (4) *Before determining a development application for development to which this section applies, the consent authority must—*



- (a) give written notice of the application to Transport for NSW (TfNSW) within 7 days after the application is made, and
- (b) take into consideration—
 - (i) any submission that TfNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and
 - (ii) the accessibility of the site concerned, including—
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
 - (iii) any potential traffic safety, road congestion or parking implications of the development.

The proposal has not changed in relation to the intensity of the use as there is only a minor change to the number of approved apartment under SSD 80675497, reducing from 437 apartments to 434 apartments. This reduction will have no notable impacts on TfNSW requirements. The existing conditions of consent can be retained.

4.2.6 Ryde Local Environmental Plan 2014

The site is located within the R4 High Density Residential zone pursuant to the Ryde Local Environmental Plan 2014 (RLEP). An extract of the Land Zoning Map is included as **Figure 9**.

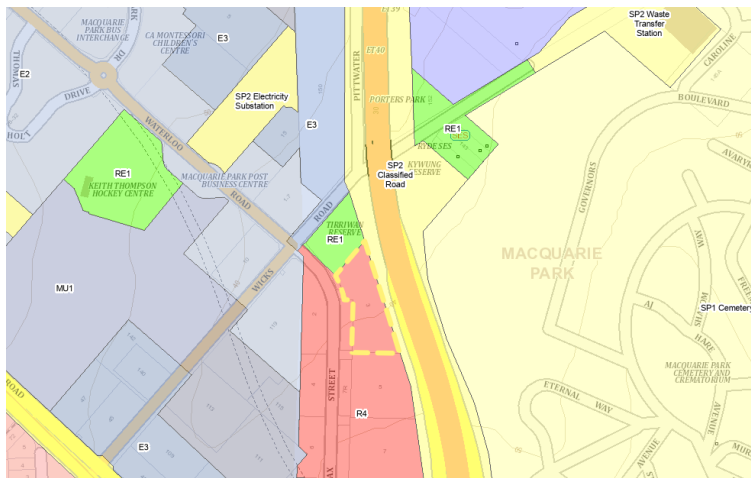


Figure 9: Extract from Land Zoning Map (site outlined dashed yellow) (Source: NSW Spatial Viewer accessed 5 March 2025)

The development is defined as a residential flat development which is permissible with consent pursuant to the Land Use Table of the RLEP in the R4 zone.

The objectives of the R4 High Density Residential zone are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents

The development approved with LDA2024/0066 and SSD80675497 was assessed to be consistent with the zone objectives and the modifications remain consistent with the zone objectives. In particular, the amended development will continue to provide for the housing needs of the community within a high density residential environment, and



maintains a variety of housing types. The modification proposal seeks to manage access to approved carparking for Building A, ensuring that the development proceeds in a timely manner and ensuring that it is not delayed by design development still in planning for Building B which will form a separate application.

Clause 6.14 of the Ryde LEP 2014

The key purpose of SSD 80675497 was the approval of additional floor levels to accommodate some of the additional Height (148m) and FSR (12.36:1) permitted under Clause 6.14 of the Ryde LEP 2014 for Lot 102. Specifically, SSDA 80675497 sought consent for 21 additional residential levels providing 207 additional apartments, achieving a total of 437 apartments within a 46 storey building.

This modification application will result in a number of minor changes on the ground plane including a new car park entry/exit to Building A, minor shift in the extent of the basement levels to the north and minor façade changes on the lower façade and landscaped areas, pedestrian entry and forecourt to adjust for the vehicle access/egress. Ultimately this change does not alter the previous assessment relating to the building footprint, the gross floor area or the building height. The minor changes at the ground plane have not impacted compliance with deep soil area (7%) and has not impacted the previously approved communal open space or monetary contributions required by condition of consent (A17 - Payment of Contribution Pursuant to Clause 6.1.4 (4) B of the Ryde LEP 2014) to ensure the delivery of suitable recreation area in the locality.

For the reasons given the modified proposal remains consistent with the objectives of the R4 High Density Residential zone.

4.2.7 Ryde Development Control Plan 2014

The relevant DCP for the purpose of the assessment of the application is the City of Ryde North Ryde Station Precinct Development Control Plan 2013 and the Lachlan's Line Urban Design Guidelines for High-Density Residential Precinct & Lot 107 Lachlan's Line (LLUDG).

As there are only minor changes proposed to the building car park entry/exit, layout and façade, the approved development will continue to provide a variety of dwelling types to meet the housing diversity requirements of the LLUDG. Importantly, the proposal will allow the development of Building A to proceed in advance of Building B, as on site car parking can be accessed separately. The proposal will continue to meet the DCP/LLUDG controls as the location of the building, site access from Halifax Street, landscaping and car parking numbers generally do not change.

4.2.8 Concept DA SSD5093

The proposal is entirely consistent with the concept DA SSD 5093.

All work for Stage 1 of SSD 5093 has been completed and the subsequent development applications (including SSD 80675497) for Building A are aligned with the Stage 1 works completed under SSD 5093.

Subsections 4.24(2) to (4) of the EP&A Act, 1979 state as follows:

“(2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site (the concept consent). (3) Subsection (2) does not prevent the modification in accordance with this Act of a consent granted on the determination of a concept development application. (4) Subsection (2) does not prevent the determination of a further development application for the site that is inconsistent with the concept consent if the consent authority determines the application by granting development consent subject to a condition requiring the modification or surrender of the concept consent.”



SSD80675497 enabled the applications of subsection 4.2.4(4) as underlined above. Condition A8 of SSD80675497 addressed the necessary amendments to SSD5093.

The current modification application does not seek any changes to the previous SSD 5093 stage 1 works or conditions of consent, as amended by SSD80675497.

4.3 SECTION 4.15 CONSIDERATIONS

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if it is satisfied that the proposed modification has minimal environmental impact. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979.

The proposal is permissible pursuant to the Ryde Local Environmental Plan 2014 and does not change the approved building envelope, layout and design provided under the SSD80675497 which granted consent for '*Construction of a residential flat building (Building A) to 46 storeys, containing 437 apartments over 8 levels of basement carparking accommodating 424 car spaces and associated works*'. The minor changes including a new car park entry to Building A, minor façade changes, RL changes and movement of Building A basement north which will have little bearing on the recently approved development as the core building elements do not change with respect to height, setbacks, FSR and landscaping. A minor adjustment occurs to the landscape design near the building forecourt facing Halifax Street to accommodate the new car park entry, although adequate space is retained to achieve good quality planting and separation of the pedestrian and vehicles entering and exiting the building. There is a minor reduction in the car parking provision allowing 422 resident and visitor car parking spaces and remains below the maximum permitted of 427 car parking spaces. The loss of three (3) apartments to achieve the improved and independent access does not impact the significant housing supply the development will deliver to meet housing need, noting that the change will allow this delivery of much needed housing sooner.

The Design Quality Principles of the Housing SEPP are maintained and the objectives and design criteria of the ADG are maintained within the approved building envelope. As stated previously the minor changes proposed under the modification application will not change the buildings compliance with relevant ADG requirements such as building separation, car parking etc as there are only minor physical built form changes proposed and the proposal remains consistent with the original assessment and development consent.

The proposal does not change any of the previous assessment against the controls contained within the Ryde Development Control Plan 2014 and in particular the Urban Design Guidelines as only minor built form changes are proposed.

4.4 IMPACTS ON NATURAL & BUILT ENVIRONMENT

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

4.4.1 Natural Environment

The proposal does not give rise to any additional or new environmental impacts beyond that considered and approved as part of SSD-80675497. An updated Flood Impact and Risk Assessment report has been prepared by S&G Consultants P/L (Ref: 20230192-R04_FIRA [B], dated 26 February 2026) and is submitted with the modification



application. The report concludes that there are no new flood impacts associated with the modified design that require a different approach compared to the approved development.

4.4.2 Built Environment

In terms of the relationship of the proposal to the adjoining properties, there is no change to the approved building envelopes. As stated previously the changes are limited to a new car park entry/exit to Building A with associated façade changes and at basement level there is a change to the basement location further north. The relationship of the building to the boundaries will remain generally consistent with the recent SSD-80675497 approval.

4.4.3 Flora & Fauna Impacts

The proposed modification will have no significant impact upon the flora and fauna of the site. Only minor changes are proposed to the landscape area adjacent to the new car park entry and pedestrian forecourt. The minor changes to the landscape design at the ground plane remains consistent with the approved plan and will maintain compliance with deep soil and landscaped area requirements previously approved.

4.4.4 Aural & Visual Privacy

The proposed modification does not result in any notable change to the existing residential flat building as viewed from the street frontages or neighbouring sites compared to the approved development. The previously approved building footprints and relationship to boundaries remains the same. The changes are limited to the southern elevation and basement levels and will not contribute to any significant built form or streetscape impacts. The proposed modification will not change aural and visual privacy considerations previously assessed and approved.

4.5 ECONOMIC & SOCIAL IMPACTS

The proposal will continue to deliver positive economic and social impact given the likely increase in community satisfaction and employment through commencement of the development.

4.6 THE SUITABILITY OF THE SITE

4.6.1 Parking and Access

The proposal maintains the carparking arrangement at the site in accordance with the recent SSD approval. Minor changes are proposed to the basement footprint, with a slight move north to accommodate the new car park entry/exit to Building A. Parking numbers remain below the maximum permitted although two (2) additional car share spaces are provided to meet demand, providing 4 in total. The total number of car parking spaces is 426, with 384 residential car parking spaces and 38 visitor car parking spaces. The basement ramp is moved to suit the revised column layout and parking for Building A will remain within the approved basement car parking levels. An updated Traffic report has been prepared by *PDC Consulting* and concludes that:

Changes are made to the basement levels within the MOD application. As such, the amended architectural plans have been reviewed and this Statement has been prepared to confirm compliance of the car parking design to the relevant Australian Standards and to redo vehicle swept path analysis, which confirms that two-way traffic circulation is achieved for primary circulation movements across all basement levels.

The vehicle access, traffic circulation and parking arrangements of the development, as reflected on the amended architectural plans (Attachment 1) have generally been designed in accordance with the relevant requirements of Australian Standard 2890.1-2004, Part 1: Off-street car parking (AS 2890.1), Australian Standard 2890.2-2018, Part 2: Off-street commercial vehicle facilities (AS 2890.2), Australian Standard



2890.3-2015, Part 3: Bicycle parking (AS 2890.3) and Australian Standard 2890.6-2022, Part 6: Off-street parking for people with disabilities (AS 2890.6).

It is noted however that the above Standards permit a degree of flexibility with regards to their application. In this regard, any concessions to the above Standards are of a minor nature and do not detract unacceptably from the operational safety or efficiency of the development.

Further, the design of the vehicle access and car parking arrangements as shown by the architectural drawings provided at Attachment 1 are considered appropriate for DA stage. Post-consent, it is likely that further refinement of the design will be required as more detail is incorporated into the drawings which will be assessed and resolved prior to the release of a Construction Certificate.

The amended development is therefore considered supportable on traffic planning grounds.

4.7 PUBLIC INTEREST

The proposal will be in the public interest as it seeks to provide apartments within a high density residential zoning. The proposal will result in minor physical changes to the approved development including the new car park entry/exit, landscaping to the forecourt, RL changes and a minor façade change to the southern elevation. The modification seeks to manage the built form process in a more efficient way allowing the development of Building A to proceed in advance of Building B. The proposal will be in the public interest as it will continue to provide housing in a high density residential area.

5. Conclusion

The proposed modification seeks to ensure the previously approved apartments are delivered in a timely manner to meet housing need and will result in only minor changes to the approved car parking and site access arrangement with provision of a separate car park entry/exit to Building A. The other minor changes as a result of this new vehicular entry/exit include RL changes, moving the basement footprint to the north, and some minor changes to the lower portion of the building façade to match the levels above. There are some minor changes to the plant/storage room, a new fire egress layout and replanning of a 3 bed apartment to achieve a more functional design. One apartment is removed at lower ground floor level and one two bedroom apartment is reduced to a one bedroom apartment to achieve the necessary access, lobby, service and storage areas following the new driveway access to the basement below Building A. Another apartment is removed at upper ground floor level to achieve an improved lobby space providing a light filled void, resulting in the provision of 434 residential apartments instead of 437. None of these changes will result in a notable change to the approved built form. The proposal will continue to provide much needed housing in a highly accessible and well serviced area.

The modification will result in the development being substantially the same, with no built form changes that impact compliance with relevant planning controls. The proposal will remain largely consistent with the SSD80675497 approval.

The modifications will not introduce any adverse additional amenity impacts as the proposal remains consistent with the approved residential flat building and existing site layout. The minor changes to facilitate a separate vehicular access to Building A do not affect the streetscape or relationship to adjoining buildings.

For the reasons stated above we respectfully request that Council modify the development consent as requested to permit the minor changes to Building A to include:



- *A separate carpark entry/exit provided for Building A;*
- *RL of lobby reduced to RL38.2 and associated changes throughout the building;*
- *Extent of Building A basement moved North;*
- *Basement ramp moved to suit revised column layout;*
- *Lower portion of facade changed to match above;*
- *Expansion of plant / storage space, bulk waste storage and waste management areas;*
- *Replanning of 3 Bed apartment and minor changes to the lower and upper ground plane apartments; and*
- *New Fire Egress layout.*

Details of the necessary updates to conditions of consent is included within the body of the report and relates mainly to updated Architectural and landscape plans under Condition A1 and Condition B8 respectively.