

# Statement of Environmental Effects for Section 4.55(2) Modification – SSD 8784

242 -244 BEECROFT ROAD, EPPING



**QUALITY ASSURANCE**

<b>Project:</b>	Statement of Environmental Effects for Section 4.55(2) modification to SSD 8874
<b>Address:</b>	242 -244 Beecroft Road, Epping
<b>Consent Authority:</b>	The Minister for Planning and Homes
<b>Author:</b>	Think Planners
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<b>Date</b>	<b>Purpose of Issue</b>	<b>Rev</b>	<b>Prepared by</b>	<b>Reviewed/Verified</b>
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## EXECUTIVE SUMMARY

This Statement of Environmental Effects has been prepared in support of a Section 4.55(2) modification to an approved State Significant Concept Development Application (SSD 8784) for a Mixed Use Development Complex on the site containing both Commercial Premises and Residential Apartments at 242 -244 Beecroft Road, Epping.

The original development application SSD 8784 was granted approval on 20 July 2020 by the Minister for Planning and Public Spaces. Keys aspects of the approved development are:

*A Concept Development Application comprising a mixed use development including:*

- *Maximum building envelopes for podium and tower buildings;*
- *Maximum gross floor area of 38,700m<sup>2</sup> comprising maximum residential gross floor area of 37,700m<sup>2</sup> and maximum non -residential gross floor area of between 750m<sup>2</sup> and 1,000m<sup>2</sup>;*
- *Conceptual land use for non-residential and residential floor space, which may include office premises, business premises, food and drink premises, shops and medical centres;*
- *Minimum 5% residential gross floor area as affordable housing dwellings;*
- *Maximum car parking rates;*

Demolition/ Construction of the development has yet to commence.

This modification is being lodged concurrently with a further SSD application that seeks approval for the construction of a Mixed Development Complex residential flat complex containing 5 residential flat buildings with heights of between 7 storeys and 15 storeys containing 373 apartments as well as 905m<sup>2</sup> of non residential floor space over 3 levels of basement parking at 242 -244 Beecroft Road, Epping.

This application seeks approval for modifications to the proposal including:

- Increasing the floor to floor heights of all residential levels from 3.1m to 3.15m to facilitate provision of 2.7m floor to ceiling heights  
The table below indicates the increased building height.;

Building	Approved Height	Proposed Height
A	RL102.73 a	RL 105.31 and 25.1m
B	RL 130.03	RL133.86 and 50.7m
C	RL 129.43	RL131.21 and 51.6m
D	RL103.285	RL 103.86 and 20.3m
E	RL 129.43	RL131.2 and 51.8m

- Relocation of the basement and service vehicle entry from Building C on Ray Road to Building A on Ray Road;
- Slight Modification and reorientation of the Building footprints to facilitate improved solar access, cross flow ventilation, internal amenity and apartment planning. (As discussed later in this report this results in the development increasing cross flow ventilation from 28% of the apartments on the lower 9 levels to 66.7%);
- Changes to the location of Communal Open Space including the relocation of Communal open space from level 13 of Buildings C and E and the provision of communal open space on Building B. The rooftop areas of Buildings B and C will be utilised for plant and solar panels. This increases the solar access to communal areas, improves the usability of these areas and will result in improved amenity for future residents and visitors.
- The number of stories in each of the buildings is proposed to alter from that approved in the concept approval as outlined in the following table:

Building	Approved Stories	Proposed
A	6	7
B	13 and 14	13
C	7, 13, and 15	7 and 14
D	5	5
E	7, 13 and 15	8 and 15

- Refinement of building setbacks as a result of the slight realignment of buildings; and
- Introduction of residential apartments on the lower level of Building C as a result of design refinement

The dashed footprint of the approved Concept Development Application is shown on the attached architectural plans prepared by Turner.

The modification is being lodged concurrently with a separate SSD application that seeks approval for the construction of the development.

The Epping Town Centre that was historically located in the Local Government Areas (LGA) of both Hornsby and Parramatta has been located entirely in the Parramatta LGA since 2016. The subject site is legally described as Lots 220 and 222 in DP 1251471, though more commonly known as 242 -244 Beecroft Road, Epping.

The site remains zoned R4 – High Density Residential with a maximum height of 48m under the Hornsby Local Environmental Plan 2013. ‘Residential Flat Buildings’ remains permissible with consent within the R4 Zone. The commercial component of the development remains permissible in accordance with clause 4.48 of the EPA Act that permits partially prohibited developments with consent.

The modified application is a result of the detailed design and interrogation of the approved concept plan and modifications as a result of responding to the partial flooding of a portion of the site and to facilitate compliance with the National Construction Code. The modifications will result in improved amenity for future residents and visitors.

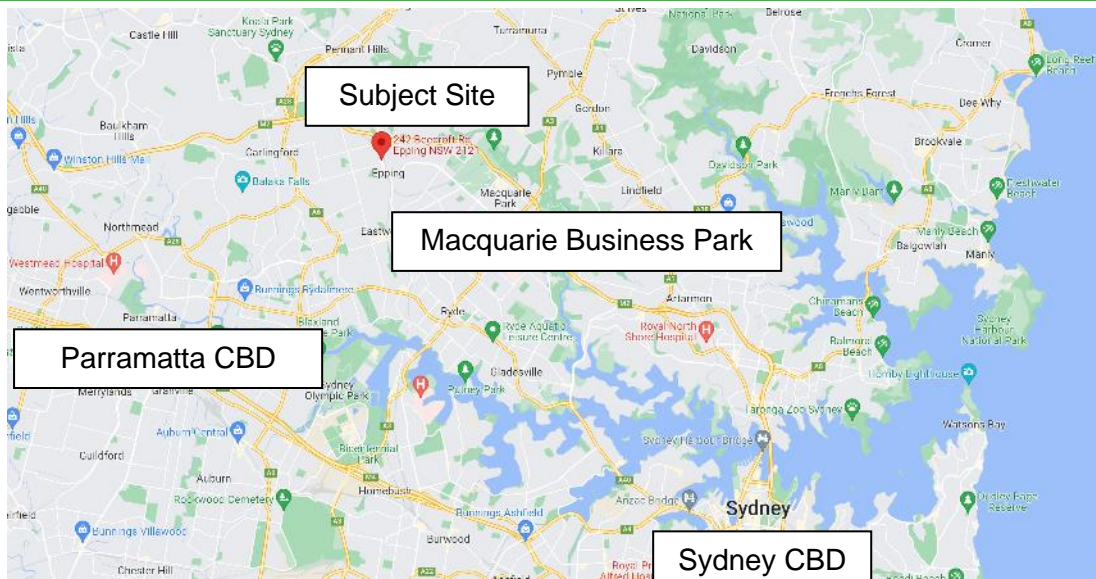
Having regard to the benefits of the proposal and considering the absence of adverse environmental, social or economic impacts, and that the proposal represents an appropriate use of well-located land; the application is submitted to Council for assessment. Think Planners Pty Ltd recommends the approval of the modification application subject to necessary, relevant and appropriate conditions of consent.

## SITE AND LOCALITY DESCRIPTION

### REGIONAL SETTING

The site is located adjacent to the northern edge of the Epping Town Centre. Epping is located approximately 8 km from the Parramatta CBD and approximately 18km from the Sydney CBD. The site is located approximately 4km from the Macquarie Park Business Precinct. Figure 1 below, illustrates the site in its regional setting.

**Figure 1: Aerial Map Extract (Source: Google Maps 2022).**



The precinct is located within the global arc economic corridor, (refer Figure 2) which stretches from Sydney Airport and Port Botany in the south through the major employment centres of the Sydney Central Business District, North Sydney, Macquarie Park and Parramatta.

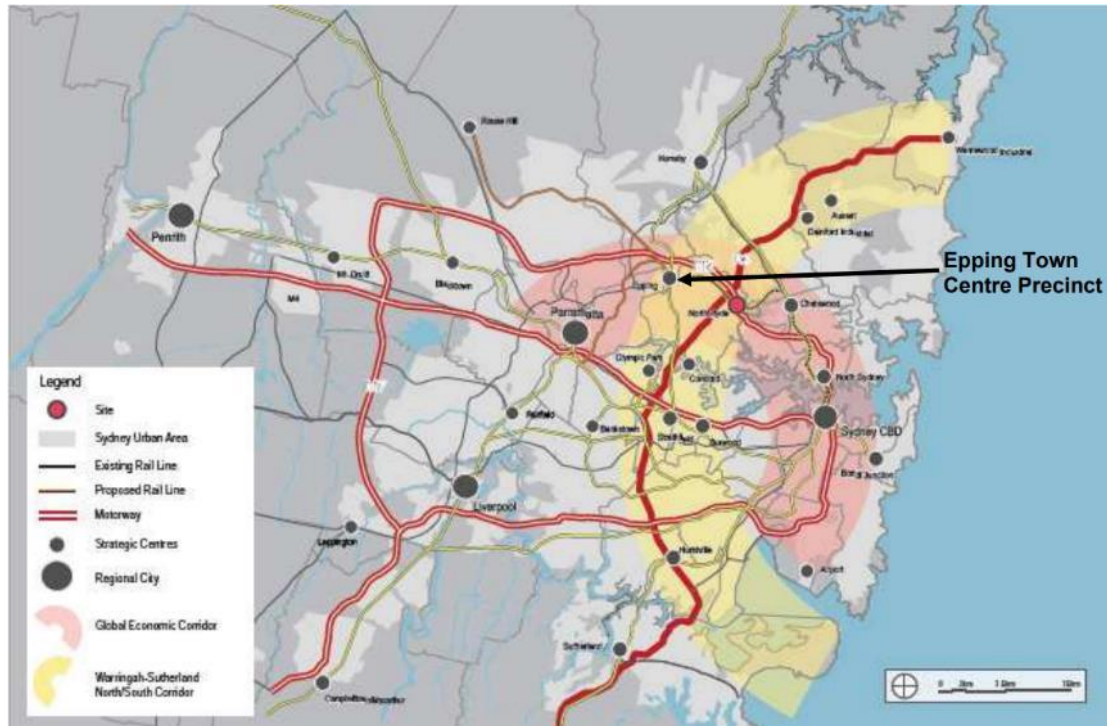
The Macquarie Park Specialised Centre, comprising Macquarie University, Macquarie University Research Park, Macquarie Centre, Macquarie Park and Riverside Corporate Park, is directly accessible by rail from Epping Railway Station, and provides employment opportunities for in excess of 55,000 people.

Macquarie University is also a significant educational facility with approximately 38,000 students. Immediately surrounding the precinct to the north, west and south is predominantly low density residential development.

The M2 motorway is located approximately one kilometre north of the railway station and bus interchange, with the Lane Cove National Park 2-3 km further to the north and north west. Further to the north west of Epping are the established centres of Castle

Hill, Norwest Business Park and the North West Growth Centre incorporating the suburbs of Kellyville and Rouse Hill. Connections to these areas are facilitated by the North West Metro that commenced operations in 2019.

**Figure 2: Sydney's Global Economic corridors (Source: Department of Planning and Environment).**



## SITE CONTEXT AND ANALYSIS

The subject site is legally described as Lots 220 and 222 in DP 1251471, though more commonly known as 242 -244 Beecroft Road, Epping

The subject site is in a highly visible site with frontages to both Beecroft Road and Ray Road. The site is located adjacent to the north western edge of the Epping Town Centre and is within 280m walking distance of Epping Station and Bus Interchange. The site is within proximity to the Epping retail and commercial precinct, recreational activities, educational establishments and employment opportunities.

The site is located on the western side of Beecroft Road and the eastern side of Ray Road and is located approximately 55m north of the intersection of Ray Road and Carlingford Road.

The site itself is as an irregular shaped land parcel with a frontage to Beecroft Road of 134.66m, a frontage to Ray Road of 84.08m and an overall site area of 10,137m<sup>2</sup>.

The immediate locality is characterised by a mix of land uses and built form comprising the following:

- South: Part one and part two storey Seven Eleven Service Station with an mechanical repair workshop and associated hand car wash with frontage to Beecroft Road, Ray Road and Carlingford Road;
- East: Beecroft Road that contains four lanes, then the above ground elevated Northern Rail Line and beyond this the high density Epping CBD that contains numerous recently constructed 15 -29 storey mixed commercial and residential; station
- North: Devlin's Creek reserve which is channelised creek with associated vegetation as well as the Sydney Metro Epping Services Facility which provides fresh air ventilation to the Northwest metro tunnel;
- West: is dominated by older style 3 -4 storey residential flat buildings on the adjacent side of Ray Road and beyond this more recently constructed 5 storey residential flat buildings.

The wider precinct is undergoing a significant amount of urban regeneration with various high density apartments, mixed use buildings and commercial developments recently constructed or currently under construction. The location is undergoing a dramatic period of change which will create a new and vibrant revitalised community.

Furthermore, the land is located adjacent to the Epping CBD which has a variety of retail, and commercial premises including a Coles full service supermarket, The Epping Club, Epping Hotel, numerous retail outlets, commercial buildings and community services including a library.

A aerial extract of the site is provided overleaf as well as a wider aerial photograph on the immediate precinct.

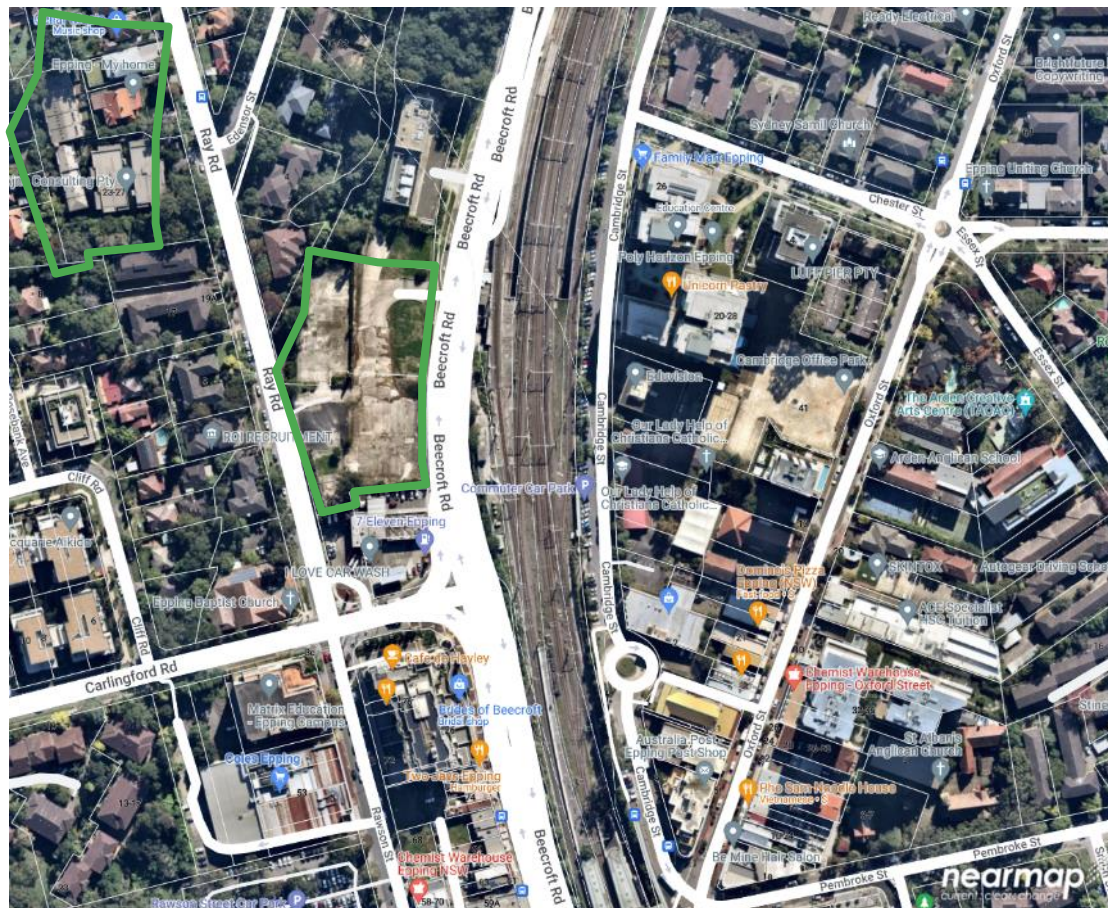
Figure 3: Aerial Map Extract (Source: Near Map 2022)



 Development Site

As illustrated by the aerial map extract below, the site is located adjacent to the north western edge of the Epping Town and is within 280m walking distance of Epping Station and Bus Interchange.

**Figure 4: Aerial Map Extract (Source: Six Maps 2022)**



 Development Site

## PROPOSED SECTION 4.55(2) MODIFICATION

This Section 4.55(2) modification seeks approval to modify an approved State Significant Concept Development Application (SSD 8784) for the construction of a Mixed Use Development Complex on the site containing both Commercial Premises and Residential Apartments at 242 -244 Beecroft Road, Epping including by:

- Increasing the floor to floor heights of all residential levels from 3.1m to 3.15m to facilitate provision of 2.7m floor to ceiling heights

The table below indicates the increased building height.;

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- Relocation of the basement and service vehicle entry from Building C on Ray Road to Building A on Ray Road;
- Slight Modification and reorientation of the Building footprints to facilitate improved solar access, cross flow ventilation, internal amenity and apartment planning. (As discussed later in this report this results in the development increasing cross flow ventilation from 28% of the apartments on the lower 9 levels to 66.7%);
- Changes to the location of Communal Open Space including the relocation of Communal open space from level 13 of Buildings C and E and the provision of communal open space on Building B. The rooftop areas of Buildings B and C will be utilised for plant and solar panels/ This increases the solar access to communal areas, improves the usability of these areas and will result in improved amenity for future residents and visitors.
- The number of stories in each of the buildings is proposed to alter from that approved in the concept approval as outlined in the following table:

Building	Approved Stories	Proposed
A	6	7
B	13 and 14	13
C	7, 13, and 15	7 and 14
D	5	5
E	7, 13 and 15	8 and 15

- Refinement of building setbacks as a result of the slight realignment of buildings; and

- Introduction of residential apartments on the lower level of Building C as a result of design refinement

The dashed footprint of the approved Concept Development Application is shown on the attached architectural plans prepared by Turner.

In addition to this Statement of Environmental Effects, the following documents and plans are submitted with this modification:

Document	Prepared By
Architectural Plans	Turner
Architectural Design report	Turner
Clause 4.6 Departure	Think Planners

This modification specifically requests the modification of condition A2.

## PLANNING CONTROLS

### SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Pursuant to Section 4.55 (2) of the Act, the Department may consider an application to amend a development consent provided that it is substantially the same development and of minimal environmental impact.

An extract of Section 4.55 (2) is provided below:

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

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

The application is substantially the same as the approved development, with the minor refinement of the scheme to reflect the detailed design work undertaken. The minor changes to the plans are reasonably and appropriately considered 'substantially the same development' when having regard to case law set down by the Land and Environment Court

Section 4.55(3) of the Act is also relevant and states:

*In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

This SEE addresses the requirements of section 4.15(1) of the EP& A Act. The reasons for approval by the Minister for Planning and Open Space were:

#### **Reasons for decision**

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- all information submitted to the Department during the assessment of the development application and additional information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- *Consistent with NSW Government Policy* – the project is permissible with development consent, and is consistent with NSW Government policies including the Greater Sydney Region Plan, Central City District Plan and State Infrastructure Policy
- *Benefits* – the project would provide a range of benefits for the region and the State as a whole, including new residential and non-residential land uses, a pedestrian and cyclist through-site link, public accessible open space, construction and operational jobs and community contributions
- *Impacts can be managed* - the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards
- *Community views considered* - the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent
- weighing all relevant considerations, the project is in the public interest.

The proposed modifications do not undermine the reasons for the approval and the modified development is considered to be consistent with them.

#### **Land and Environment Court Judgments**

The question as to whether a modified proposal is 'substantially the same' as that originally approved has been an ongoing issue dealt with in the Land and Environment Court. It is also important to note that the Court has consistently described the section 96-modification provision of the Act as "beneficial and facultative". It is designed to assist the modification process rather than to act as an impediment to it; "It is to be construed and applied in a way that is favourable to those who seek to benefit from

the provision” (see *North Sydney Council v Michael Standley & Associates Pty Limited* [1998]).

As demonstrated below the change to an approval can be substantial without the amended proposal failing the ‘substantially the same’ test. By way of example, and relevant to the current proposal, the following cases were considered in the Court and found to be substantially the same development, with this extract contained in a *Gadens Publication* dated 17 June 2012:

**Bassett and Jones Architects Pty Limited v Waverley Council (No 2) [2005]:** The modification application sought an additional storey to the approved front building of a mixed commercial and residential development, which would alter the building from three- storeys to four-storeys; and the provision of a zero side setback for a part of the external side walls at all three levels. This resulted in an increase in floor space of 112 square metres, being a 20 per cent increase in floor space, and a 28 per cent increase in height (both of which exceeded the applicable council controls).

The Court found that the test was satisfied albeit only on “a very fine balance”. The Court noted however that the modified design might give rise to privacy impacts that may warrant refusal of the application when the merits of the change are assessed. The application was later refused on its merits, but not before passing the “substantially the same” threshold test.

**Davi Developments Pty Ltd v Leichhardt Council [2007]:** A modification application sought to change consent for a seven storey residential flat building with two levels of basement parking. There was to be a reduction of one floor, but an increase in the main parapet height by 900mm, and the substantial reconfiguration of the unit mix such that the numbers reduced from 42 to 30, with a rearrangement of the car park plan such that it was “entirely different”.

The Court nevertheless considered that the fundamental characteristics and essence of the building would remain essentially the same.

**Bathla Investments Pty Limited v Blacktown City Council [2008]:** The original approval was for eight townhouses presenting as four, single-storey buildings. Some of the townhouses were attached.

The modification application sought to change some of the townhouses to two storeys, and also sought to separate the dwellings and made changes to the garage designs and parking layout. The Court noted that there were “numerous differences” between the schemes, however, the townhouse development presented as materially and essentially the same development.

**Marana Developments Pty Limited v Botany City Council [2011]:** The original approval was for the construction of five residential flat buildings (with basement car parking) comprising a total of 76 units. The modification application sought ‘significant

changes to the external appearance and layout of the buildings' including an increase in unit numbers from 76 up to 102, and an additional level of basement car parking.

This also involved a changed unit mix. Despite significant internal changes, the minimal change to the external floor plates and layout was of great significance and the test was satisfied.

**Boyd v Bega Valley Council [2007]:** It was proposed to add a second storey to a single storey dual occupancy development. Although the application was unsuccessful on merit grounds reasons (visual impact from the waterway caused by poor architectural design), the Court was satisfied that the increase from a single storey to a two storey dwelling satisfied “substantially the same” test.

As can be seen above, particularly in *Bathla v Blacktown*, the Court noted that despite there being “numerous differences” the development presented as materially and essentially the same development. Having regard to the series of minor amendments proposed in this application including the changed building footprint and the increased height, it is noted that the proposal remains materially and essentially the same development.

Therefore, the proposal is considered to be in essence substantially the same development as that originally approved.

It is anticipated that the development application will be notified to adjoining property owners and a discussion against the relevant planning controls is provided further in this statement.

## STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

This SEPP came into effect on 1 March 2022 and incorporated the provisions of three now repealed SEPP's being:

- State Environmental Planning Policy (Coastal Management) 2018;
- State Environmental Planning Policy No 33—Hazardous and Offensive Development; and
- State Environmental Planning Policy No 55—Remediation of Land.

Chapter 2 of the SEPP contains controls for coastal management and it not applicable to this development.

Chapter 3 of the SEPP contains controls for Hazardous and Offensive Development. This development is not for Hazardous and Offensive development and accordingly this chapter is not applicable to this development.

Chapter 4 of the SEPP contains a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm. This issue was considered by the Department of Planning and Environment as part of the assessment of the parent application and found to be satisfactory.

### STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 (BIODIVERSITY AND CONSERVATION SEPP)

This SEPP came into effect on 1 March 2022 and incorporated the provisions of eleven now repealed SEPP's being:

- SEPP (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)
- SEPP (Koala Habitat Protection) 2020 (Koala SEPP 2020)
- SEPP (Koala Habitat Protection) 2021 (Koala SEPP 2021)
- Murray Regional Environmental Plan No 2—Riverine Land (Murray REP)
- SEPP No 19—Bushland in Urban Areas (SEPP 19)
- SEPP No 50—Canal Estate Development (SEPP 50)
- SEPP (Sydney Drinking Water Catchment) 2011 (Sydney Drinking Water SEPP)
- Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No 2 – 1997) (Hawkesbury–Nepean River SREP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Sydney Harbour Catchment SREP)
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Georges River REP)
- Willandra Lakes Regional Environmental Plan No 1 – World Heritage Property (Willandra Lakes REP).

Chapter 2 of the SEPP contains planning rules and controls from the former Vegetation SEPP relating to the clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application. This chapter seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation. It is noted that this modification does not seek approval for any additional vegetation removal.

Chapter 3 – Koala habitat protection contains provisions from the Koala SEPP 2020 and, as an interim measure, applies in the NSW core rural zones of RU1, RU2 and RU3, except within the Greater Sydney and Central Coast areas. Given the sites location and zoning this chapter is not applicable to the development.

Chapter 4 – contains the land-use planning and assessment framework from the former Koala SEPP 2021 for koala habitat within Metropolitan Sydney and the Central Coast and applies to all zones except RU1, RU2 and RU3 in the short term. The site is not identified as containing koala habitat and accordingly this chapter is not applicable to this development.

Chapter 5 – contains the provisions from the former Murray REP, which establishes a consistent and co-ordinated approach to environmental planning and assessment along the River Murray. Given the sites location, this chapter is not applicable to this development.

Chapter 6 – Bushland in urban areas' contains the provisions from the former SEPP 19, which seeks to protect and preserve bushland within public open space zones and reservations. The site is not zoned Public Open Space and is not identified as being within a reservation and accordingly this chapter is not applicable to this development.

Chapter 7 – contains the provisions from the former SEPP 50, which aims to prohibit canal estate development. The development does not propose a canal development and accordingly this chapter is not applicable to this development.

Chapter 8 – contains the provisions from the former Sydney Drinking Water Catchment SEPP to support the water quality objectives for this catchment. The site is not identified as being within the Sydney Drinking Water catchment and accordingly this chapter is not applicable to this development.

Chapter 9– contains the provisions from the former Hawkesbury– Nepean River REP to protect the environment of this river system. The site is not identified as being within the Hawkesbury Nepean River catchment and accordingly this chapter is not applicable to this development.

Chapter 10 – contains the provisions from the former Sydney Harbour Catchment SREP to manage and improve environmental outcomes for Sydney Harbour and its tributaries. The subject site is subject to the broad planning principles contained within the chapter. This was considered as part of the parent development application and found by the Department of Planning and Environment to be satisfactory.

Chapter 11 – contains the provisions from the former Georges River REP to manage and promote integrated catchment management policies along the Georges River

and its tributaries. The site is not identified as being within the Georges River catchment and accordingly this chapter is not applicable to this development.

Chapter 12 – contains the provisions from the former Willandra Lakes REP, which seeks to protect, conserve and manage this World Heritage property. The site is not identified as being within the Willandra Lakes Precinct and accordingly this chapter is not applicable to this development.

## STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

This SEPP came into effect on 1 March 2022 and incorporated the provisions of four now repealed SEPP's being:

- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017;
- State Environmental Planning Policy (Major Infrastructure Corridors) 2020; and
- State Environmental Planning Policy (Three Ports) 2013.

Chapter 2 – contains planning rules and controls from the former Infrastructure SEPP for infrastructure in NSW, such as for hospitals, roads, railways, emergency services, water supply and electricity delivery. The development remains consistent with chapter 2.

Chapter 3 – contains planning provisions from the former Education and Childcare SEPP for child-care centres, schools, TAFEs and Universities. Given the proposed use of the development, this chapter is not applicable.

Chapter 4 – contains provisions from the former Corridor SEPP, including planning controls and reserves land for the protection of 3 corridors (North South Rail Line, South West Rail Link extension and Western Sydney Freight Line). The site is not identified as being within any of these corridors and accordingly this chapter is not applicable to this development.

Chapter 5 – Contains the land-use planning and assessment framework from the former Three Ports SEPP for appropriate development at Port Kembla, Port Botany and Port of Newcastle. The site is not identified as being within any of these port precincts and accordingly this chapter is not applicable to this development.

## STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT AND THE APARTMENT DESIGN GUIDE

A key aim of this modification is to improve compliance with the requirements of the Apartment Design Guide. The architects have modelled the approved concept plans and formed the view that the approved scheme:

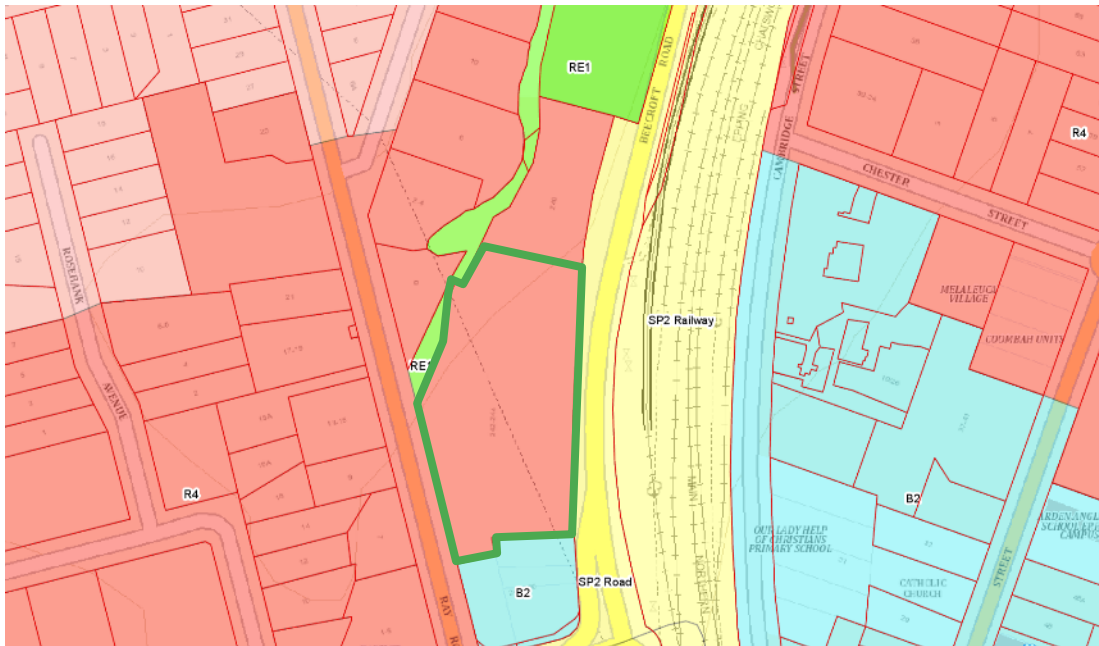
- Provided only 28% of units on the first 9 levels as being naturally cross ventilated. The revised footprint increases this to 66.7%;
- Provided 20.1% of the total apartments with no solar access in mid winter. The revised footprint reduces this to 17.7%; and
- Provided 3.1m floor to floors to facilitate 2.7m floor to ceiling heights. Given the current complexities of the National Construction Code this modification seek to provide 3.15m floor to floors to ensure that 2.7m floor to ceiling heights can be provided within habitable rooms.

Given the above, the modification will result in the proposal being more consistent with the provisions of SEPP 65.

HORNSBY LOCAL ENVIRONMENTAL PLAN 2013

As shown on the zoning map extract below the development site remains zoned R4 – High Density Residential under the provisions of Hornsby LEP 2013.

Figure 5: Zoning Map Extract (Source: Hornsby LEP 2013).



 - Development Site

Residential Flat Buildings remain permissible with consent within the subject site and the proposal is consistent with the definition contained within the LEP and outlined below:

**Residential Flat Building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

In the R4 High Density zone “Commercial premises” are prohibited however clause 4.38(3) of the Environmental Planning and Assessment Act allows partially prohibited State Significant Developments to be approved with development consent, and this part of the development is consistent with the definition of Commercial Premises provided in the LEP:

“Commercial premises means any of the following—

- (a) business premises,
- (b) office premises,

(c) retail premises.”

The objectives of the R4 Mixed Use zone are listed below:

- 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 modified development remains consistent with the objectives as:

- It provides for the housing needs of the community within a high density residential setting;
- It provides a mix of apartment types including affordable housing and a range of different bedrooms to provide a variety of housing types; and
- It provides other landuses that meet the day to day needs of residents

The table below provides detail on the development standards relevant to the current proposal as well as other relevant LEP provisions.

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Hornsby Local Environmental Plan 2013 - Compliance Table			
Clause	Control	Comment	Complies
<b>Zoning</b>	R4 – High Density Zone – Permitted with Consent	No changes to the proposed land uses under this modification.	No change
<b>Part 2 Permitted or Prohibited Development</b>			
<b>2.3</b>	Zone Objectives and Land Use Table	The proposal remains consistent with the zone objectives of the R4 – High Density Zone.	Yes
<b>2.7</b>	Demolition Requires Consent	The parent DA is a Concept development application that does not facilitate any physical works.	Not Applicable
<b>Part 4 Principal Development Standards</b>			
<b>4.3</b>	Height of Buildings 48m	The parent development application was approved with a height of 48m and this modification seeks to facilitate a maximum height of 51.6m as a result of providing 3.15m floor to floors to facilitate compliance with ADG requirement of 2.7m floor to ceiling heights in habitable rooms and appropriately responding to the flooding constraints of a portion of the site	Variation

4.4	Floor Space Ratio-	N/A	No Change
4.6	Exception to Development Standards	The proposal seems to vary the 48m height control that applies to the site. Although not technically required a clause 4.6 submission accompanies this modification to assist the Department in assessing the merits of the departure.	Yes
<b>Part 5 Miscellaneous Provisions</b>			
5.10	Heritage Conservation	The site is not heritage listed or located within a heritage conservation area.  The impact of the development on heritage items in the wider vicinity of the site was considered as part of the parent development application and found to be acceptable.	No Change
<b>Part 6 Additional Local Provisions</b>			
6.1	Acid sulphate soils	The subject site is not identified as being affected by Acid Sulphate Soils. Not applicable.	No change
6.2	Earthworks	No changes under this proposed modification.	No Change
6.3	Flood planning	The modification appropriately responds to the flooding constraints of a portion of the site with slightly revised building footprints and raising of the ground floor level and overall height of part of the development.	Yes
6.4	Biodiversity	The site is not identified on the Natural Resources Biodiversity Map. Not applicable.	N/A

## PARRAMATTA HARMONISATION PLANNING PROPOSAL

The Draft Parramatta Local Environmental Plan 2020 was exhibited until 12 October 2020 and seeks to provide a single planning framework for the future planning of the City of Parramatta. The proposal was adopted by Council on 12 July 2021 with Council staff recently advising that the planning proposal is anticipated to be made in September 2022. The changes proposed seek to harmonise and repeal the five existing LEPs currently applicable to the City of Parramatta local government area, those being:

- Holroyd Local Environmental Plan 2013,
- -Parramatta Local Environmental Plan 2011;

- Parramatta (former The Hills) Local Environmental Plan 2012;
- Hornsby Local Environmental Plan 2013, and
- Auburn Local Environmental Plan 2010.

The relevant planning controls for the subject site, are not proposed to change under the Draft PLEP. Accordingly no further assessment of the DLEP controls is warranted.

#### BIODIVERSITY CONSERVATION ACT 2016

The potential for the site to contain flora and fauna was considered as part of the parent Approval for the site. As part of this assessment The Ecological Constraints statement provided in support of the EIS lodged with the concept application concluded that due to the high level of disturbance on site, removal of a small amount of exotic vegetation and limited native vegetation will not have an adverse impact on the environment. As such the redevelopment of the site is unlikely to impact on any biodiversity values.

Based on this a waiver was issued on 6 March 2018 ,that did not require a BDAR to be prepared. The vegetation on the site has not altered since this time

#### DRAFT PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2020

The Draft Parramatta Local Environmental Plan 2020 was exhibited until 12 October 2020 and seeks to provide a single planning framework for the future planning of the City of Parramatta. The proposal was adopted by Council on 12 July 2021 with Council staff recently advising that the planning proposal is anticipated to be made in September 2022. The changes proposed seek to harmonise and repeal the five existing LEPs currently applicable to the City of Parramatta local government area, those being:

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The relevant planning controls for the subject site, are not proposed to change under the Draft PLEP. Accordingly no further assessment of the DLEP controls is warranted.

## CONCLUSION

Following a review of the relevant planning controls, it is concluded that the proposed modified development is consistent with the objectives, planning strategies and detailed controls of these planning documents. Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and this report addresses these impacts.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the modification application, subject to necessary, relevant and appropriate conditions of consent.