

1-15 and 2-12 Conferta Avenue Rouse Hill (Tallawong  
Station South)

## Section 4.55 Planning Statement (SSD 9063)

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## **1-15 AND 2-12 CONFERTA AVENUE ROUSE HILL (TALLAWONG STATION SOUTH)**

Modification to approved Concept Plan for a mixed use development comprising residential apartments, commercial uses, public domain works and landscaping including a public park

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1.0	INTRODUCTION	4
2.0	SITE DESCRIPTION AND LOCATION	6
2.1	Location Description	6
2.2	Site Description	8
2.3	Surrounding Development	10
3.0	BACKGROUND	11
3.1	Concept Plan SSD 9063	11
3.2	Tallawong Station Design Review Panel	12
4.0	PROPOSED MODIFICATIONS	15
4.1	Overview	15
4.2	Amendment to the building footprints and envelopes for sites 1A, 1B, 2C and 2D	15
4.3	Amendment to the heights of the envelopes	20
4.3.1	Floor to ceiling heights for retail component and lift overruns	24
4.3.2	Shadow Comparison	26
4.4	Amendment to the basement, deep soil and street design	28
4.5	Amendment to Ownership Diagram	31
4.6	Amendment to the minimum residential visitor rate	32
5.0	STATUTORY PLANNING FRAMEWORK	33
5.1	Environmental Planning and Assessment Act 1979	33
5.2	Environmental Assessment	34
5.2.1	Compliance with Statutory Plans	35
5.2.2	Built Form	36
5.2.3	Open Space	37
5.2.4	Road Design	38
5.2.5	Ownership	40
5.2.6	Height	40
6.0	CONCLUSION	43

## 1.0 INTRODUCTION

This submission has been prepared as supporting documentation for an application made pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* to modify the consent for State Significant Development 9063 for a Concept Plan for a mixed use precinct at 1-15 and 2-12 Conferta Avenue, Rouse Hill (Tallawong Station Precinct South site). This report has been prepared having regard to the Secretary's Environmental Assessment Requirements (SEARs) issued by the NSW Department of Planning, Infrastructure & Environment (the Department) on 16 February 2018 to the original SSD application

The site benefits from Concept Plan SSD 9063 which was approved on 21 February 2019 for a mixed-use precinct, known as Tallawong Station Precinct South, including:

- building envelopes for up to 16 buildings of varying heights, to a maximum of eight storeys
- maximum gross floor area (GFA) of 93,393 m<sup>2</sup>
- residential development of up to 1,100 dwellings equating to approximately 85,000 m<sup>2</sup> GFA
- commercial, retail and community uses of approximately 9,000 m<sup>2</sup> GFA
- allocation of car parking and bicycle parking rates
- minimum 5% Affordable Housing
- landscaping of the site for public and private domain including a public park (approximately 3,411 m<sup>2</sup>)
- road layout.

Following approval of the Concept Plan, Landcom conducted a Call for Expressions of Interest (EOI) to potential development partners to deliver the project. Following the EOI stage, a shortlist of developers were invited to participate in a competitive tender and Deicorp was awarded the contract due to its strong track record in residential and mixed use developments, to create new places for communities to live, work, shop and play. Deicorp are responsible for securing the necessary development consent (guided by the approved Concept Plan) and for the construction and delivery of the project.

During the course of the workshop process the Design Review Panel provided independent expert design advice to assist the design development of the scheme. Refinements to the building envelopes were discussed. The subject S4.55 is lodged concurrently with the Development Application to reflect the discussed refinements to the building envelopes.

This application seeks approval for a number of refinements to the approved building envelopes in the Urban Design Report prepared by Bennett and Trimble, as well as amendments to some of the diagrams in the approved Design Quality Guidelines prepared by Bennett and Trimble. These amendments are illustrated in the Addendum Urban Design Report prepared by Turner architects which accompanies this application. The primary modifications are:

- Amendment to the building footprints and envelopes for sites 1A, 1B, 2C and 2D;
- Amendment to the heights of the envelopes;
- Amendment to the basement locations, deep soil locations, and soil on slab;
- Amendment to the street design for the street to the west of the park;
- Amendment to the ownership diagram; and
- Amendment to the minimum residential visitor parking rates.

The Department of Planning, Infrastructure and Environment have confirmed that the proposed amendments to the approved Concept Plan SSD 9063 do not require an update to the originally issued SEARs.

This Statement has been prepared pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*. The Statement provides an assessment of the amended proposal having regard to the relevant

legislative context, social economic and environmental impacts, potential amenity impacts of the development on the surrounding locality and the measures proposed within the application to mitigate such impacts.

The Statement details the amended proposal against applicable environmental planning instruments and development control plans including:

- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide

The proposed amendments to the approved Concept Plan SSD 9063 represent a number of improvements to the approved design and will facilitate a positive outcome for Rouse Hill with the introduction of a vibrant mixed use development within a generously landscaped setting which will provide 9,000 square metres of commercial and retail uses which will significantly improve convenience retailing for the existing community as well as additional local jobs, as well as important public benefits including a new road network, pedestrian and cycling links through the site, and a generous publicly accessible park.

Having regard to the applicable legislative framework, the proposed amendments to the approved Concept Plan are such that the development retains the same fundamental characteristics and is therefore substantially the same development. The amended development remains consistent with the aims and objectives of the relevant environmental planning instruments and development control plan whilst remaining compatible with the emerging character of the locality.

## 2.0 SITE DESCRIPTION AND LOCATION

### 2.1 Location Description

The subject site is situated within the Blacktown Local Government Area in the suburb of Rouse Hill, approximately 16.5 km northwest of Parramatta. The site is located north of Schofields Road, Rouse Hill, generally between Cudgegong Road to the east and Tallawong Road to the west as illustrated in Figure 1 below. The recently completed Tallawong Station is located immediately to the north, whilst to the south of the site across Schofields Road is The Ponds which is a low to medium density residential community.

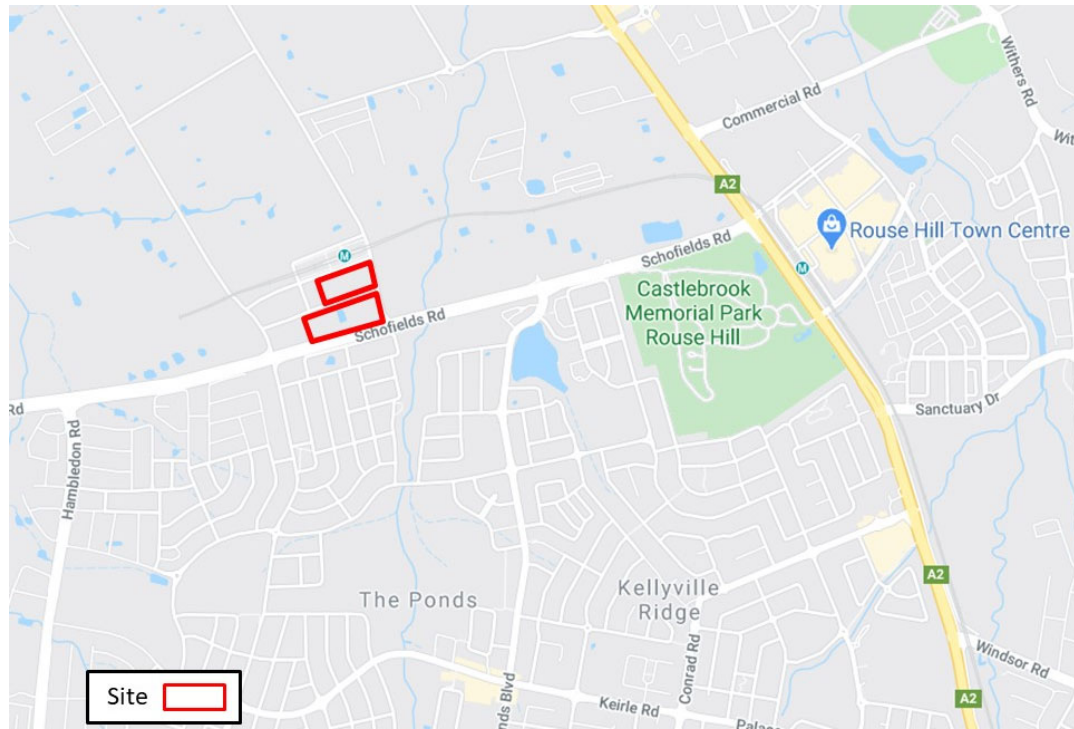


Figure 1:

Location plan: (Source: Google Maps 2020)

The site is located with the 'Area 20 Precinct' pursuant to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and specifically is part of the Cudgegong Road Local Centre under Schedule 4 Cudgegong Local Centre Development Controls of the Blacktown City Council Priority Growth Area Precincts Development Control Plan. The local centre includes land to the north of the Tallawong Station, the commuter car park area to the south of the station as well as the subject site.

The vision for the Area 20 Precinct including the Cudgegong Road Local Centre is described in the Development Control Plan as follows:

...The vision for Area 20 Precinct is to create a series of new walkable residential neighbourhoods supported by local retail, employment, community, open space and recreational opportunities. The majority of housing will be in medium density forms, such as semi-detached and townhouses, though the Precinct will provide for a range of densities, dwelling types and affordability options including larger lots and standard

detached houses, with apartments in close proximity to Rouse Hill Town Centre and its associated public transport opportunities.

The proposed North West Rail Link and new rail station near Cudgegong Road will introduce opportunities for a village centre linked to the station with surrounding higher density residential development and mixed use areas adjacent to the village centre and station. This will offer local residents improved access to jobs and services within the Precinct. Detailed provisions for the Cudgegong Station Area will ensure that the station, commuter car park and rail design is properly integrated with the surrounding land uses.

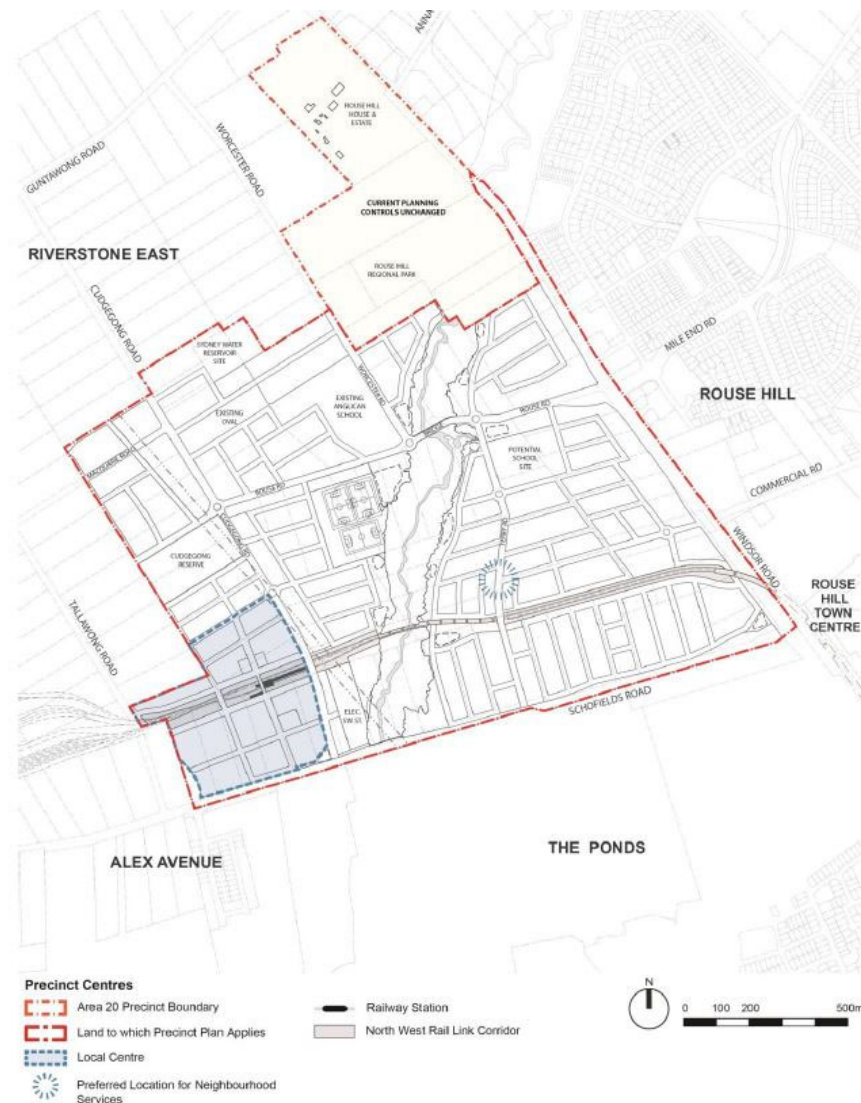


Figure 2:

Figure 4-1 from Schedule 4 Cudgegong Road (Area 20) Precinct showing the local centre within which the site is located

The subject site is specifically identified as being located within two of three sub-precincts for the local centre:

(b) A Mixed Use Precinct (B4 zone) immediately adjacent to the Retail Core to both the north and south side of the Station / Railway Corridor which can accommodate limited further retail and / or commercial uses together with residential flat buildings.

(c) A Medium Density Residential Precinct (R3) located to the south along Schofields Road to provide for increased residential densities within close proximity to the Station.

## 2.2 Site Description

The site to which the approved Concept Plan (SSD 9063) relates is a broader superlot with a total area of approximately 70,424 square metres as illustrated in Figure 3 below.

However, new roads including Themeda Avenue, Conferta Avenue and Aristida Street have subsequently been constructed and dedicated to Blacktown City Council with new allotments created which now form the residual sites to which the detailed development application will relate.

These sites are known as Site 1 and Site 2 as detailed in the Table below and illustrated in Figure 4.

Site	Address	Legal Description	Size
1	2-12 Conferta Avenue, Rouse Hill	Lot 294 DP 1213279	16,240 square metres
2	1-15 Conferta Avenue, Rouse Hill	Lot 293 DP 1213279	27,030 square metres

Site 1 is bound by Cudgegong Road to the east, Themeda Avenue to the north, Conferta Avenue to the south and is adjacent to an at-grade commuter car park to the west.

Site 2 is bound by Cudgegong Road to the east, Conferta Avenue to the north, Schofields Road to the south and is also adjacent to an at-grade commuter car park to the west.

Both sites have been used extensively as work zones. Site 1 has been completely cleared of all improvements and vegetation, with the exception of a temporary pocket park on the northern side adjacent to Themeda Avenue. Site 2 is cleared of all buildings and contains a pond in the centre of the site as well as a small number of trees. The sites are currently contained by hoarding around each perimeter.

There are falls across the site from the high point at the north-west corner to the low point of the south-eastern corner. The fall from north to south across Site 1 is approximately 5 metres, which is more than the equivalent of 1 storey. The fall from north to south across Site 2 is approximately 3.5 metres or the equivalent of approximately 1 storey.





Figure 3:

Site plan for  
Concept  
Plan SSD  
9063  
(Source:  
Landcom)



Figure 4:

Site plan for  
subject  
proposal  
(Source:  
SixMaps)

### 2.3 Surrounding Development

Immediately opposite to the north of Site 1 across Themeda Avenue is the recently completed Tallawong Station. Immediately adjacent to the west of each of Site 1 and Site 2 are large hard stand commuter car parks. Cudgegong Road to the east of the site gradually rises and becomes elevated at the northern end opposite the site as it crosses over the new railway line. To the east of Cudgegong Road is an Endeavour Energy Substation and the Second Ponds Creek reserve.

Schofields Road is located to the south of Site 2, beyond which is The Ponds housing estate which comprises low density detached housing.

## 3.0 BACKGROUND

### 3.1 Concept Plan SSD 9063

Sydney Metro is Australia's biggest public transport project. This new standalone railway will deliver 31 metro stations and more than 66 kilometres of new metro rail, revolutionising the way Sydney travels. The Metro North West Line opened in May 2019 between Tallawong and Chatswood.

The Metro North West Line, with 13 stations is a catalyst for urban renewal, providing connections to areas that will be transformed through both NSW Government and private investment. NSW Government-owned land surrounding the metro stations includes land that is no longer required to support operation. These sites have been made available for development that supports NSW Government priorities of housing affordability, local infrastructure delivery and economic development. Landcom is the master developer for government land around new stations. As a master developer, Landcom is leading studies to support planning for project sites, work with local councils, DPIE and other government agencies, local business and communities to shape plans for projects. Landcom will appoint private sector development partners to deliver projects across the program.

In July 2018 Landcom lodged an application with the Department of Planning, Industry and Environment on behalf of Sydney Metro for a Concept Development Application (SSD 9063) for the Tallawong Station South Precinct for a mixed use development south of Tallawong Station, comprising the following:

- building envelopes for up to 16 buildings of varying heights, to a maximum of eight storeys
- maximum gross floor area (GFA) of 93,393 m<sup>2</sup>
- residential development of up to 1,100 dwellings equating to approximately 85,000 m<sup>2</sup> GFA
- commercial, retail and community uses of approximately 9,000 m<sup>2</sup> GFA
- allocation of car parking and bicycle parking rates
- minimum 5% Affordable Housing
- landscaping of the site for public and private domain including a public park (approximately 3,411 m<sup>2</sup>)
- road layout.

The Concept Plan application was subsequently approved on 21 February 2019.

Under the Development Consent for SSD 9063, the Minister for Planning and Public Spaces determined pursuant to s4.37 of the *Environmental Planning & Assessment Act 1979* that any subsequent stage of development with capital investment value of less than \$30 million is to be determined by the relevant authority and that stage of the development ceases to be State Significant Development, whilst conversely any development with a value in excess of \$30 million therefore remains State Significant Development.

The development consent for SSD 9063 contains conditions outlining the matters to be addressed as part of the future development applications.

In accordance with section 4.24 of the *Environmental Planning & Assessment Act 1979*, any further development application cannot be inconsistent with the consent for the concept proposal for the site. Note subsection (2) does not prevent the modification of a consent for a concept development application.





Figure 5:

Artist impression of Tallawong Station Precinct South, noting the image is taken from the concept stage in 2018 and has since been refined. Source: Landcom

Following approval of the Concept Plan, Landcom conducted a Call for Expressions of Interest (EOI) to potential development partners to deliver the project. Following the EOI stage, a shortlist of developers were invited to participate in a competitive tender and Deicorp was awarded the contract due to its strong track record in residential and mixed use developments, to create new places for communities to live, work, shop and play. Deicorp are responsible for securing the necessary development consent (guided by the approved Concept Plan) and for the construction and delivery of the project.

### 3.2 Tallawong Station Design Review Panel

As part of the preparation of the detailed development application, the project has been the subject of an extensive review process with the Tallawong Station South Design Review Panel which was established and managed by Landcom as required by the Design Excellence Strategy.

The Tallawong Station Design Review Panel comprised the following experts:

Design Review Panel Members	Representing
Jane Irwin (Chair)	Landcom Design Advisory Panel
Roderick Simpson	Landcom Design Advisory Panel
Jane Threlfall	Government Architect NSW
Matt Sales	Blacktown City Council

The DRP provided independent expert advice to inform the development and resolution of the detailed proposal. The role of the DRP is advisory and it does not have a formal approval role for the Development Application. The DRP was responsible for undertaking critical design review to support good design outcomes and ensure the delivery of the principles and objectives of the approved concept proposal.

Landcom and Sydney Metro were joint secretaries who managed the meetings and minutes, and two observers from the Department of Planning, Infrastructure and Environment were present at every meeting.

Four Design Review Panel meetings were undertaken where lead presenter Turner Architects, in collaboration with other consultants for the project, presented the project and addressed a broad range of issues in progressively greater detail. These issues included:

- site arrangement and reconfiguration of some building envelopes
- retail strategy and pedestrian movement
- affordable housing
- building heights
- roads
- diversity in architecture and dwelling types
- internal connections
- external connections
- public domain interface
- landscape and open space
- place making
- sustainability
- servicing
- staging
- tree planting
- village green
- basement design
- car parking
- object buildings
- Conferta Avenue pedestrian crossing
- shared zone adjacent to the village green
- new precinct street
- water sensitive urban design
- residential lobbies interface
- diversity of housing
- streetscape

The meetings were conducted on the following dates:

Meeting	Date
DRP No. 1	25 November 2019
DRP No. 2	20 February 2020
DRP No. 3A	19 March 2020
DRP No. 3B	26 March 2020

During the course of the workshop process the Design Review Panel provided independent expert design advice to assist the design development of the scheme. Refinements to the building envelopes were discussed. A S4.55 is lodged concurrently with the Development Application to reflect changes to the building envelope.

## 4.0 PROPOSED MODIFICATIONS

### 4.1 Overview

The subject S4.55 Modification Application seeks the following primary modifications to the approved Concept Plan SSD 9063, as illustrated in the Addendum Urban Design Report prepared by Turner architects which accompanies this application:

- Amendment to the building footprints and envelopes for sites 1A, 1B, 2C and 2D;
- Amendment to the heights of the envelopes;
- Amendment to the basement locations, deep soil locations, and soil on slab;
- Amendment to the street design for the street to the west of the park;
- Amendment to the ownership diagram; and
- Amendment to the minimum residential visitor parking rates.

These proposed modifications are discussed in further detail below.

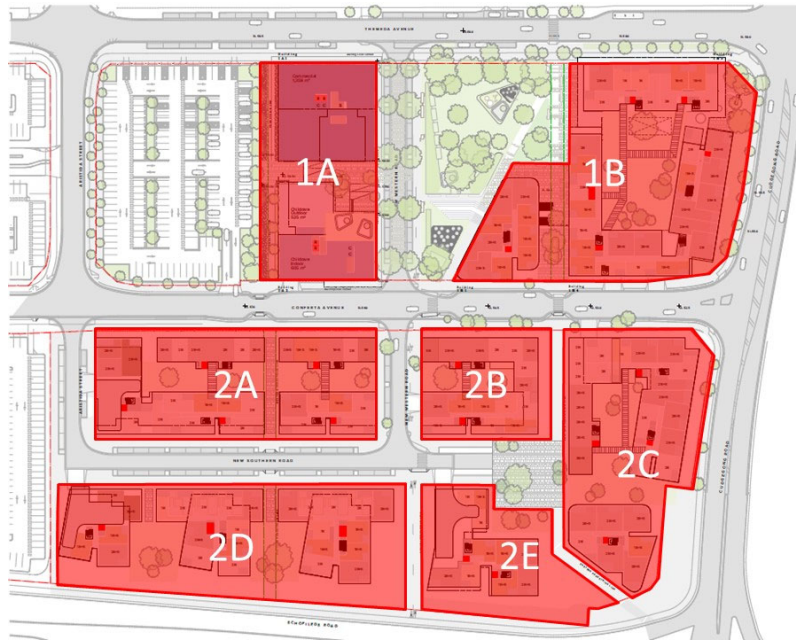
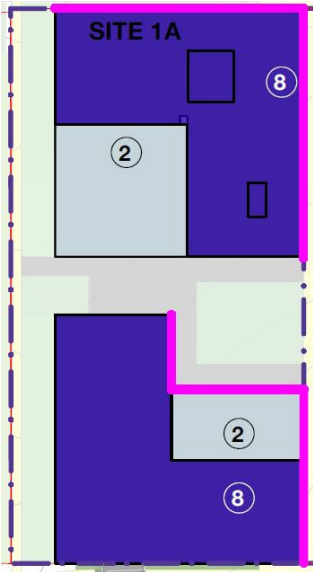
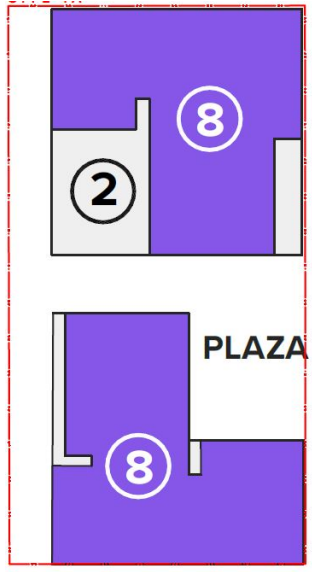
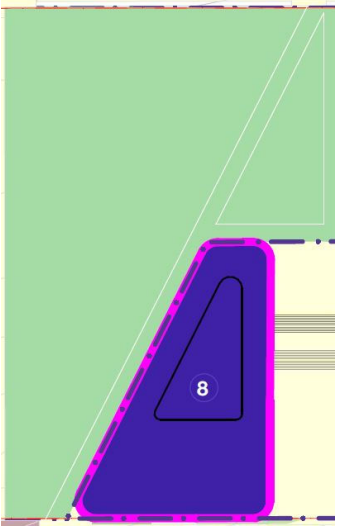
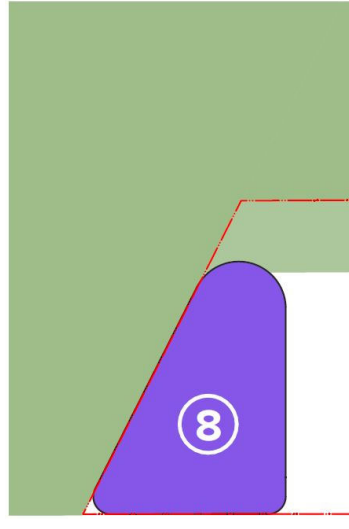
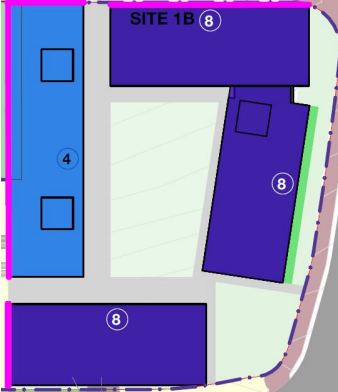
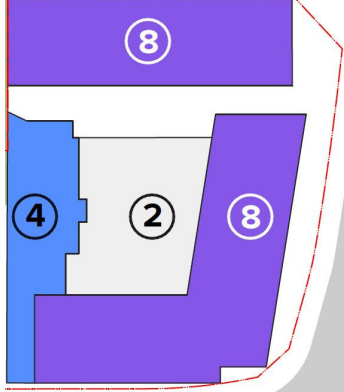


Figure 6:

Site plans with  
site labels

### 4.2 Amendment to the building footprints and envelopes for sites 1A, 1B, 2C and 2D

As a result of a considered analysis of the approved building envelopes, a number of refinements and improvements have been identified. The primary modifications to the building envelope footprints are diagrammatically illustrated as follows:

Site	Approved	Modified
<p>1A</p> <ul style="list-style-type: none"> <li>Shift the built form to maximise solar access to the plaza and building façade</li> <li>Step the built form down to the park and commuter car park to provide opportunities for extended outdoor areas above</li> </ul>		
<p>1B (Park)</p> <ul style="list-style-type: none"> <li>Reduce building footprint to object building to provide a direct visual and physical connection to the pedestrian boulevard from the commuter car park, increasing the size of the park</li> </ul>		
<p>1B Retail</p> <ul style="list-style-type: none"> <li>Shift building forms to respond to new through site link</li> <li>Reconfigure the built form to define the corner of Cudgegong Road and Conferta Ave, creating a gateway to the residential precinct</li> </ul>		



Site	Approved	Modified
<p>2C</p> <ul style="list-style-type: none"> <li>• Redistribute built form to maximise solar access to plaza</li> <li>• Reduce building lengths to increase visual and physical permeability through the site</li> <li>• Redistribute heights to provide a lower scale building interface along the length of the pedestrian boulevard</li> </ul>		
<p>2D</p> <ul style="list-style-type: none"> <li>• Rotate buildings to orientate outlook north in response to solar access site building alignments</li> <li>• Reduce upper building widths to Schofields Road and remove step on southern façade.</li> </ul>		

A massing comparison of the approved building envelopes and proposed amendments to the building envelopes is illustrated in Figures 7 and 8 below:

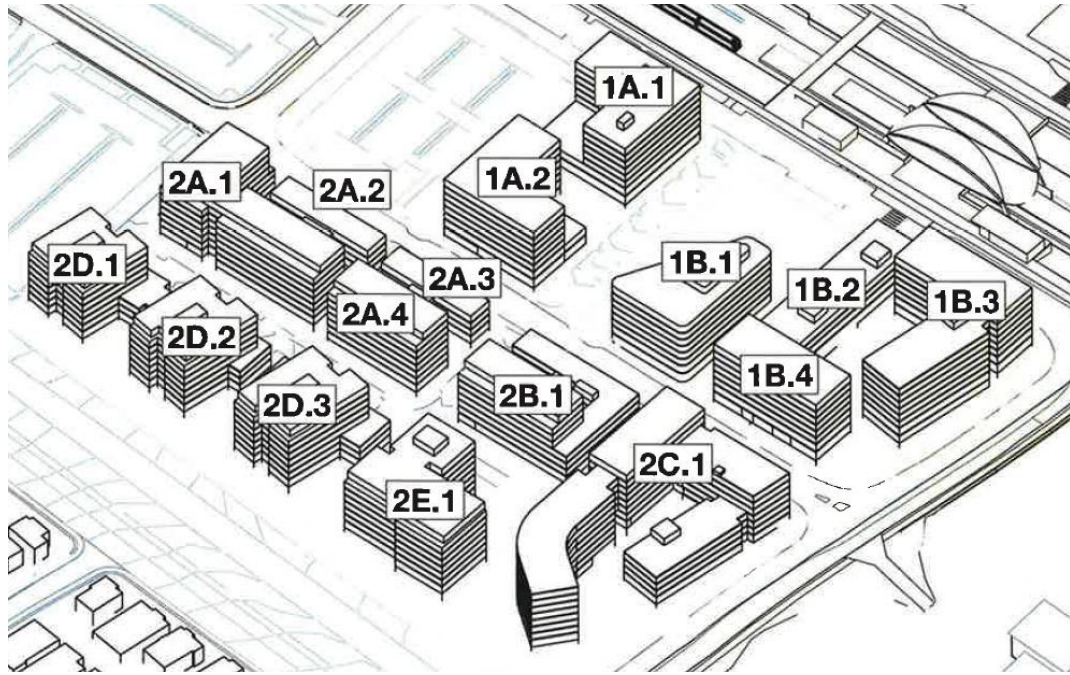


Figure 7:

Approved Concept Plan building envelopes

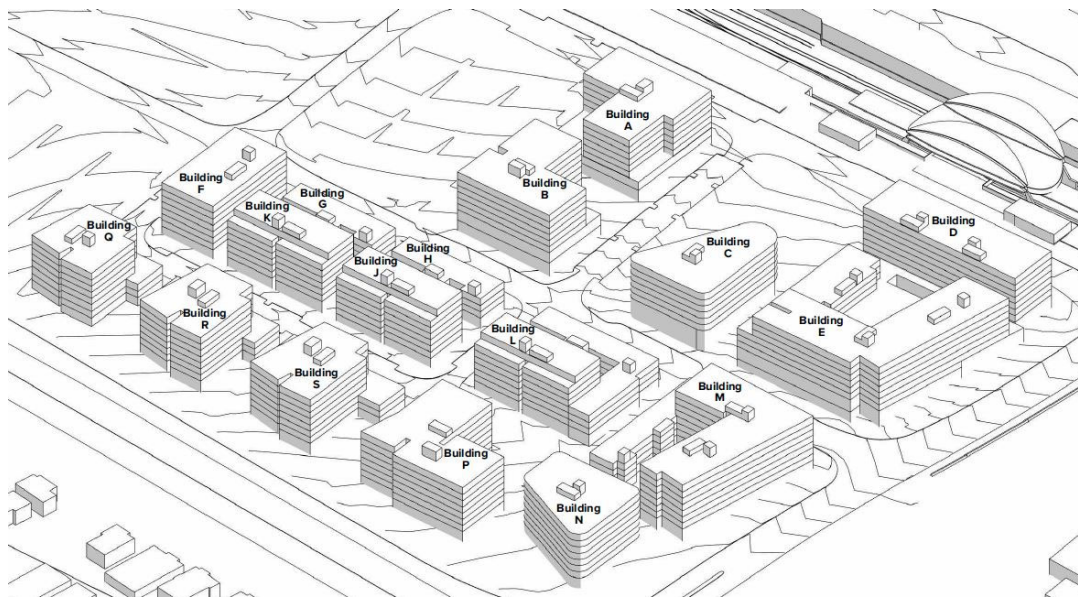


Figure 8:

Proposed amendments to Concept Plan building envelopes

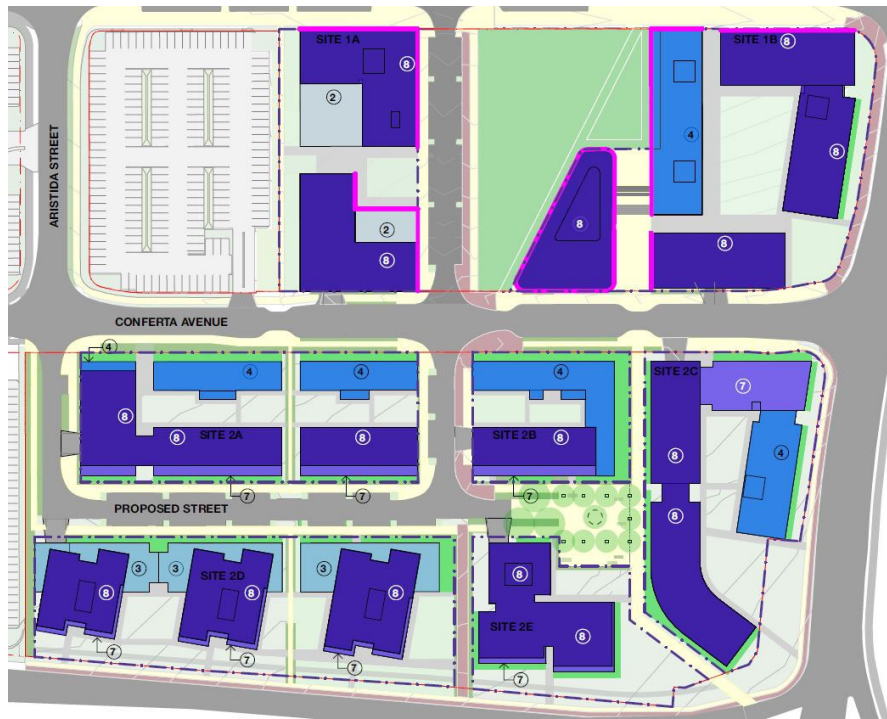


Figure 9:

Concept  
Plan  
approved  
storeys



Figure 10:

Proposed  
storeys for  
amended  
Concept  
Plan

#### 4.3 Amendment to the heights of the envelopes

The Concept Plan SSD 9063 provides for a range of building heights from 2 storeys to 8 storeys, as anticipated by the 26 metre height control. However, the Concept Plan approval also established that some variation to the height control is necessary due to the sloping topography of the site, the need for higher floor to ceiling heights for the commercial components of the project, and also the need for lift overruns to provide access to roof tops for high amenity communal open space areas. The Concept Plan SSD 9063 was accompanied by a Clause 4.6 request in relation to the various height variations, which was supported by the Department of Planning, Infrastructure and Environment.

Notwithstanding the above, as part of the preparation of this detailed development application, an analysis of the approved heights of the building envelopes by Turner Architects has identified that the heights of some of the buildings need to increase further for the following three reasons:

- Insufficient height was provided for the ground floor of the retail component with only 4 metre floor to ceiling heights instead of 6 metre;
- Lift overruns were not provided for many buildings; and
- Refinement of ground floor levels of various buildings to properly deal with the significant cross falls across the site and achieving appropriate accessibility grades as well as relationships between ground floor levels and the surrounding public domain.

Accordingly, it is proposed to amend the approved heights with minor to moderate changes across the Concept Plan.

Notwithstanding the increase to the heights for some buildings, most of the parapets in Site 2 are actually lower than the approved parapet heights in the Concept Plan. Furthermore, the proposed height variations do not result in any change to the approved number of storeys.

A visual representation of the approved Concept Plan and modified Concept Plan with the 26 metre height plane overlay is provided in Figures 11 and 12 below, whilst the table below these figures provides a detailed comparison of the proposal and approved heights.



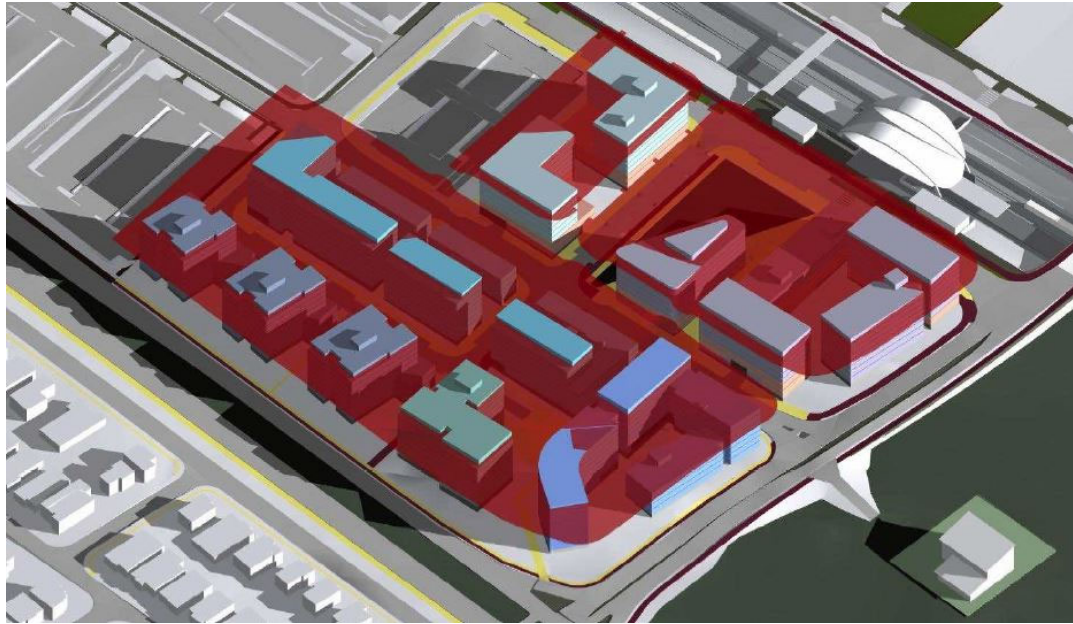


Figure 11:

Approved Concept Plan with 26 metre height plane

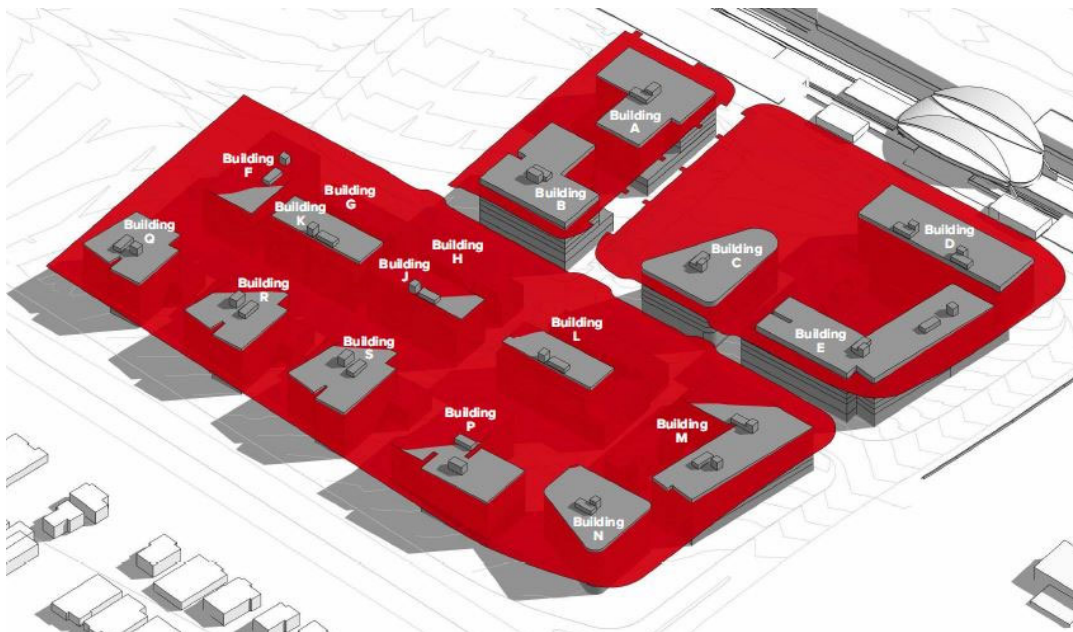


Figure 12:

Proposed amendment to Concept Plan with 26 metre height plane

The proposed increase in heights is illustrated in the table below:

Building Ref (Turner/ Concept)	Proposed Max height	Proposed Variation to 26m height control	Concept approval Max height	Concept approval variation to 26m height control	Increase/ Decrease compared to Concept Plan
A/1A.1	<ul style="list-style-type: none"> <li>Parapet - 28.49m</li> <li>Lift overrun - 32.36m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.49m (9.57%)</li> <li>Lift overrun - 6.36m (24.4%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.4m</li> <li>Lift overrun - 31.5m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.4m (9.23%)</li> <li>Lift overrun - 5.5m (21.1%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet +0.09m</li> <li>Lift overrun +0.86m</li> </ul>
B/1A.2	<ul style="list-style-type: none"> <li>Parapet - 29.15m</li> <li>Lift overrun - 32.98m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 3.15m (12.11%)</li> <li>Lift overrun - 6.98m (26.8%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.4m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.4 metres (9.2%)</li> <li>No lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet +0.75m</li> <li>No previous lift overrun +4.58m</li> </ul>
C/1B.1	<ul style="list-style-type: none"> <li>Parapet - 27.46m</li> <li>Lift overrun - 31.05m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 1.46m (5.6%)</li> <li>Lift overrun - 5.05m (19.4%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 27.4m</li> <li>Lift overrun - 28.8m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 1.4m (5.38%)</li> <li>Lift overrun - 3.8 metres (14.6%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet +0.06m</li> <li>Lift overrun +2.25m</li> </ul>
D/1B.3	<ul style="list-style-type: none"> <li>Parapet - 30.1m</li> <li>Lift overrun - 33.35m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 4.1m (15.7%)</li> <li>Lift overrun - 7.35m (28.2%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.5m</li> <li>Lift overrun - 29.9m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.5m (9.6%)</li> <li>Lift overrun - 3.9m (15%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet +1.6m</li> <li>Lift overrun +3.45m</li> </ul>
E/1B.2 and 1B.4	<ul style="list-style-type: none"> <li>Parapet - 31.06m</li> <li>Lift overrun - 34.69m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 5.06m (19.4%)</li> <li>Lift overrun - 8.69m (33.4%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.7m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.7 metres (10.4%)</li> <li>No lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet +2.36m</li> <li>No previous lift overrun +5.99m</li> </ul>
F/2A.1	<ul style="list-style-type: none"> <li>Parapet - 26.62m</li> <li>Lift overrun - 30.50m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 0.62m (2.3%)</li> <li>Lift overrun - 4.5m (17.3%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.6m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.6m (10%)</li> <li>No lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -1.98m</li> <li>No previous lift overrun +1.9 metres</li> </ul>

Building Ref (Turner/ Concept)	Proposed Max height	Proposed Variation to 26m height control	Concept approval Max height	Concept approval variation to 26m height control	Increase/ Decrease compared to Concept Plan
G/2A.2	<ul style="list-style-type: none"> <li>Parapet - 13.90m</li> <li>Lift overrun - 18.79m</li> </ul>	<ul style="list-style-type: none"> <li>N/A – Compliant</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 15.1m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>N/A - Compliant</li> </ul>	<ul style="list-style-type: none"> <li>N/A - Compliant</li> </ul>
H/2A.3	<ul style="list-style-type: none"> <li>Parapet - 14.3m</li> <li>Lift overrun - 19.19m</li> </ul>	<ul style="list-style-type: none"> <li>N/A – Compliant</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 14.3m</li> <li>Lift overrun - 19.19m</li> </ul>	<ul style="list-style-type: none"> <li>N/A - Compliant</li> </ul>	<ul style="list-style-type: none"> <li>N/A - Compliant</li> </ul>
J/2A.4	<ul style="list-style-type: none"> <li>Parapet - 26.6m</li> <li>Lift overrun - 28.37m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 0.6m (2.3%)</li> <li>Lift overrun – 2.37m (9.1%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 27.5m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 1.5m (5.8%)</li> <li>No lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -0.9m</li> <li>No previous lift overrun +0.87m</li> </ul>
K/2A.1	<ul style="list-style-type: none"> <li>Parapet - 26.4m</li> <li>Lift overrun - 28.22m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 0.4m (1.5%)</li> <li>Lift overrun – 2.22m (8.5%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.6m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.6m (10%)</li> <li>No lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -2.2m</li> <li>No previous lift overrun -0.38m</li> </ul>
L/2B.1	<ul style="list-style-type: none"> <li>Parapet - 26.6m</li> <li>Lift overrun - 28.42m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 0.6m (2.3%)</li> <li>Lift overrun – 2.42m (9.3%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.5m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.5m (9.6%)</li> <li>No lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -1.9m</li> <li>No previous lift overrun -0.08m</li> </ul>
M/2C.1	<ul style="list-style-type: none"> <li>Parapet - 28.53m</li> <li>Lift overrun - 31.83m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 2.53m (9.7%)</li> <li>Lift overrun – 5.83m (22.4%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.9m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.9m (11.1%)</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -0.37m</li> <li>No previous lift overrun +2.93m</li> </ul>
N/2C.1	<ul style="list-style-type: none"> <li>Parapet - 27.57m</li> <li>Lift overrun - 31.77m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 1.57m (6%)</li> <li>Lift overrun – 5.77m (22.2%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.9m</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 2.9m (11.1%)</li> <li>No Lift overrun</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -1.33m</li> <li>No previous lift overrun +2.87m</li> </ul>
P/2E.1	<ul style="list-style-type: none"> <li>Parapet - 28.50m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 2.5m (9.6%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.50m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet 2.5m (9.6%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet no change</li> </ul>

Building Ref (Turner/ Concept)	Proposed Max height	Proposed Variation to 26m height control	Concept approval Max height	Concept approval variation to 26m height control	Increase/ Decrease compared to Concept Plan
	<ul style="list-style-type: none"> <li>Lift overrun – 31.60m</li> </ul>	<ul style="list-style-type: none"> <li>Lift overrun – 5.6m (21.5%)</li> </ul>	<ul style="list-style-type: none"> <li>Lift overrun – 29.6m</li> </ul>	<ul style="list-style-type: none"> <li>Lift overrun – 3.6m (13.8%)</li> </ul>	<ul style="list-style-type: none"> <li>Lift overrun +2m</li> </ul>
Q/2D.1	<ul style="list-style-type: none"> <li>Parapet - 26.33m</li> <li>Lift overrun – 30.50m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 0.33m (1.27%)</li> <li>Lift overrun – 4.5m (17.3%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 27.2m</li> <li>Lift overrun – 30.30m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 1.2m (4.61%)</li> <li>Lift overrun – 4.3 metres (16.5%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -0.87m</li> <li>Lift overrun +0.2m</li> </ul>
R/2D.2	<ul style="list-style-type: none"> <li>Parapet - 27.54m</li> <li>Lift overrun – 31.25m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 1.54m (5.9%)</li> <li>Lift overrun – 5.25m (20.1%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28.1m</li> <li>Lift overrun – 31.2m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 2.1m (8%)</li> <li>Lift overrun - 5.2m (20%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -0.56m</li> <li>Lift overrun +0.05m</li> </ul>
S/2D.3	<ul style="list-style-type: none"> <li>Parapet - 27.51m</li> <li>Lift overrun – 31.20m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 1.51m (5.8%)</li> <li>Lift overrun – 5.2m (20%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet - 28m</li> <li>Lift overrun – 31.1m</li> </ul>	<ul style="list-style-type: none"> <li>Parapet – 2m (7.69%)</li> <li>Lift overrun - 5.1m (19.6%)</li> </ul>	<ul style="list-style-type: none"> <li>Parapet -0.49m</li> <li>Lift overrun +0.1m</li> </ul>

#### 4.3.1 Floor to ceiling heights for retail component and lift overruns

The approved Concept Plan provided 4 metres ceiling height, but only provided 4.4 metres floor to floor height. In order to accommodate adequate services zones and transfer depths, a floor to floor height of 6 metres is required to achieve a 4 metre ceiling height.

In relation to lift overruns, it is noted that many buildings in the Concept Plan were not nominated with any lift overruns at all. This has two consequences, the first being that it is not possible to access the roof top for common open space, and the second being that no lift overrun at all above the roof level means that the lift overrun needs to be accommodated within the same horizontal zone at the top floor which means that the lift terminates at the second top floor and all apartments on the top two floors can only be two storey apartments. In addition, where lift overruns were nominated they only had a 3.1 metre height whereas 4.2 metres is required as this is the average requirement of most lift manufacturers.

A visual comparison of the approved Concept Plan and the proposed amendments in relation to floor to ceiling heights and lift overruns is provided in Figures 13 and 14 below.



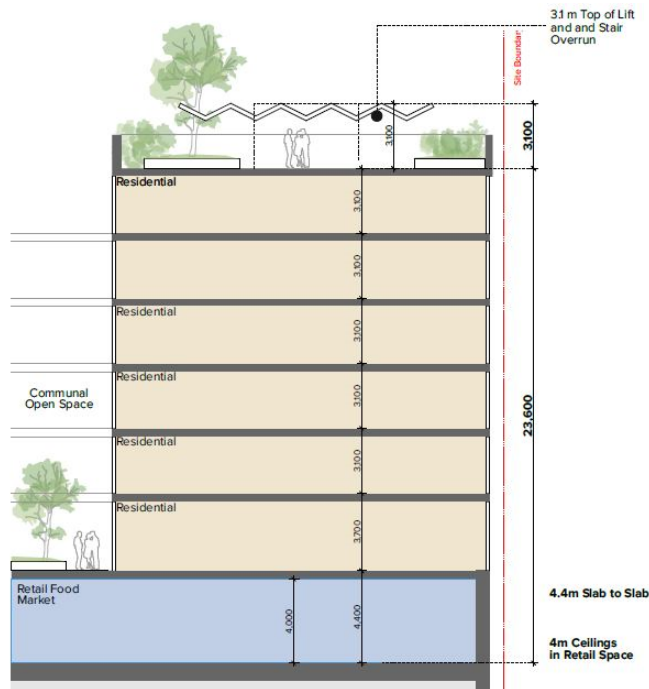


Figure 13:

Floor to ceiling heights and lift overrun in approved Concept Plan

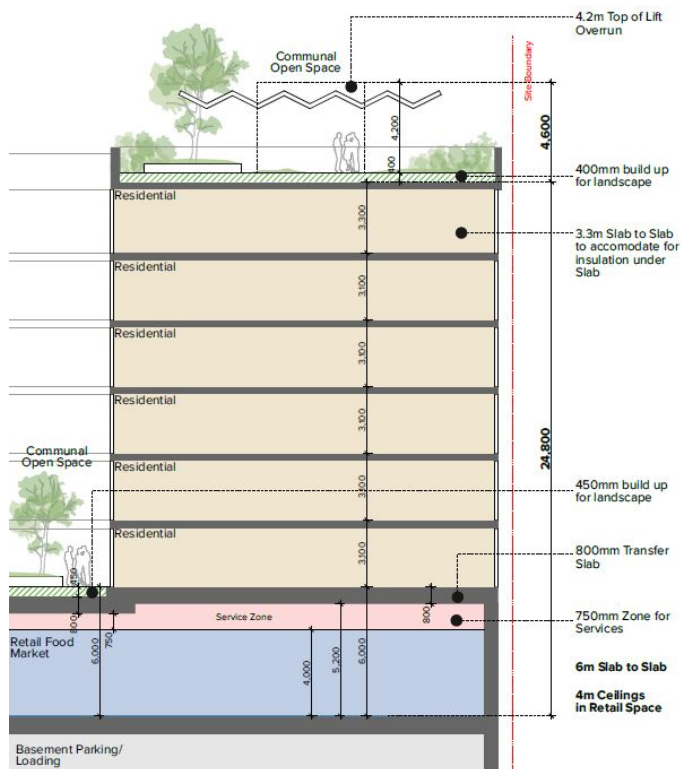


Figure 14:

Proposed amendments to floor to ceiling height and lift overruns

#### 4.3.2 Shadow Comparison

Whilst there are a range of increased height when compared to the Concept Plan which have resulted in changes to the shadow cast by the development when compared to the approved Concept Plan, as the parapets of all of the southern buildings have reduced there is actually a reduced shadow impact to the nearest sensitive properties at The Ponds across Schofields Road. This is illustrated in Figures 15, 16 and 17 below.

In relation to shadow impact to open space, whilst there is some increased shadow to the publicly accessible park, due to the location of the publicly accessible park at the northern end of the site it still enjoys extensive solar access and the majority of the park receives solar access from 10.30am to 3pm on 21 June.

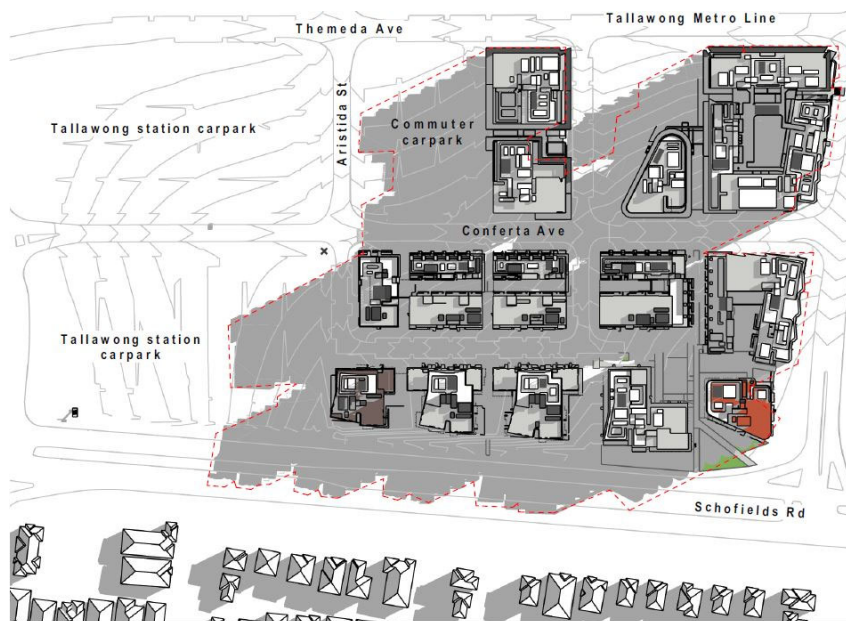


Figure 15:

9am shadow  
on 21 June  
(red line  
indicates  
approved  
Concept Plan  
shadow)



Figure 16:

12pm shadow  
on 21 June  
(red line  
indicates  
approved  
Concept Plan  
shadow)

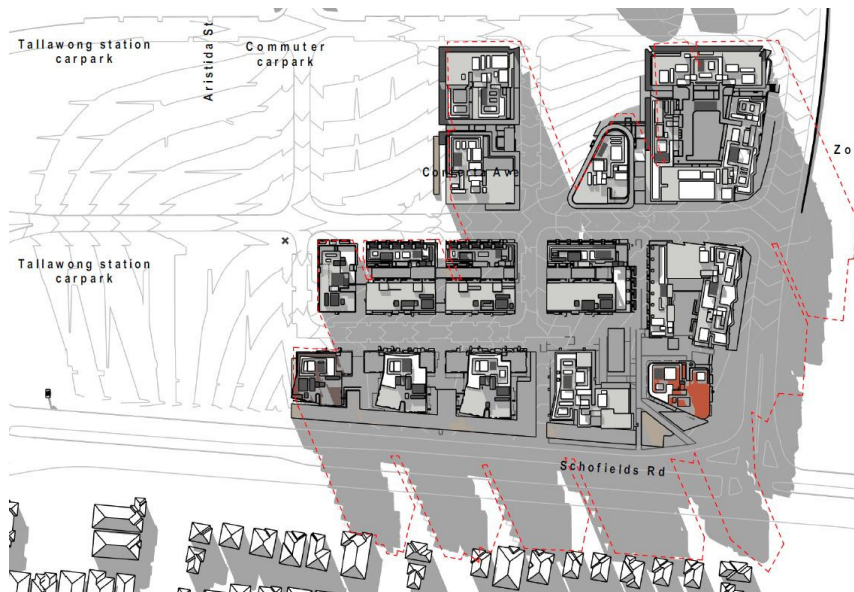


Figure 17:

3pm shadow  
on 21 June  
(red line  
indicates  
approved  
Concept Plan  
shadow)

#### 4.4 Amendment to the basement, deep soil and street design

The approved Concept Plan anticipated that the public park within the development and the adjacent street to the west of the park would both be dedicated to Blacktown City Council and therefore would not contain any private development components below these components. This is reflected in the 'Basement Parking and Deep Soil Planting' and 'Ownership' diagrams in the approved Design Quality Guidelines prepared by Bennett and Trimble.

However, it is proposed that the park will be retained in private ownership and that public access of the park will be secured on title, as this provides more flexibility for the design of the park and a more intensive maintenance regime beyond that which would occur if the park was in public ownership. It also provides the opportunity to extend the basement below the park which achieves the following improvements:

- Consolidated entry and exit points to the basement for retail visitors and residents, providing clearer legibility and way-finding across the town centre;
- Increased active frontage to the street through reduced/dedicated carpark entry widths;
- Improved connectivity between the parking and the retail and commercial tenancies across Site 1;
- A less complicated retail visitor parking strategy consolidated across bigger plates on fewer levels;
- Clearer distinction/separation between retail and residential vehicular movements and parking areas;
- A reduction in the depth of excavation required across the site; and
- No reduction in amenity, quality or function of the park and public domain.

Deicorp approached Blacktown City Council to consider private ownership of the park to deliver a higher quality public realm that is maintained at the cost of the stratum. Blacktown City Council have agreed in principle for Deicorp to retain ownership of the park and the western adjacent street which is proposed to be designed as a private street.

In order to ensure that the park is still capable of supporting mature and generous trees and vegetation, a large soil 'vault' is proposed above the basement level with a minimum depth of 1.5 metres.

The changes to the basement and park design require an update to the following diagrams in the approved Design Quality Guidelines prepared by Bennett and Trimble, as illustrated in the Addendum Urban Design Report:

- 'Street Network and Hierarchy'
- 'Deep Soil Network'
- 'Basement Parking and Deep Soil Planting'

These changes have been presented to the Design Review Panel which has indicated that it appreciated the positive benefits that will be achieved for the development as a result of these refinements to the approved Concept Plan, provided that it could be demonstrated that the landscape quality of the park would not suffer as a consequence of the basement location under the park. The Landscape Report and Soil Landscape Specifications which accompany this application provide a detailed explanation in relation to this issue which demonstrate that the landscape quality of the park will not be compromised.

In addition to the above, the deep soil locations have also been refined to support rationalised basement layouts. The approved Concept Plan provision of deep soil was 2,358 square metres excluding the publicly accessible park, whilst the amended design is 4,258 square metres excluding the publicly accessible park.



Figure 18:

Approved  
Concept Plan  
basement and  
deep soil plan  
(2,358sqm deep  
soil)



Figure 19:

Proposed  
amendments to  
basement and  
deep soil plan  
(4,258sqm deep  
soil)



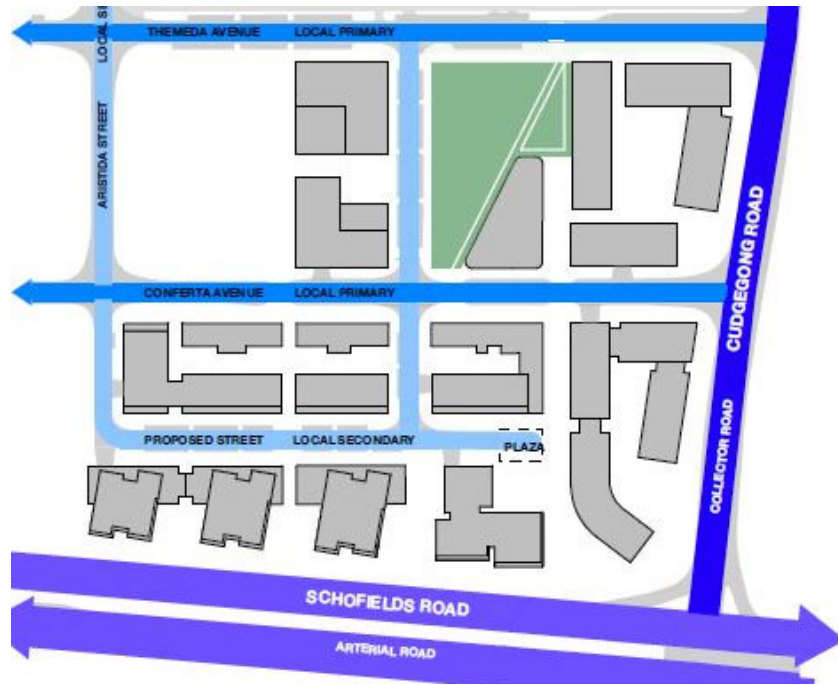


Figure 20:

Approved  
Concept Plan  
street network  
and hierarchy

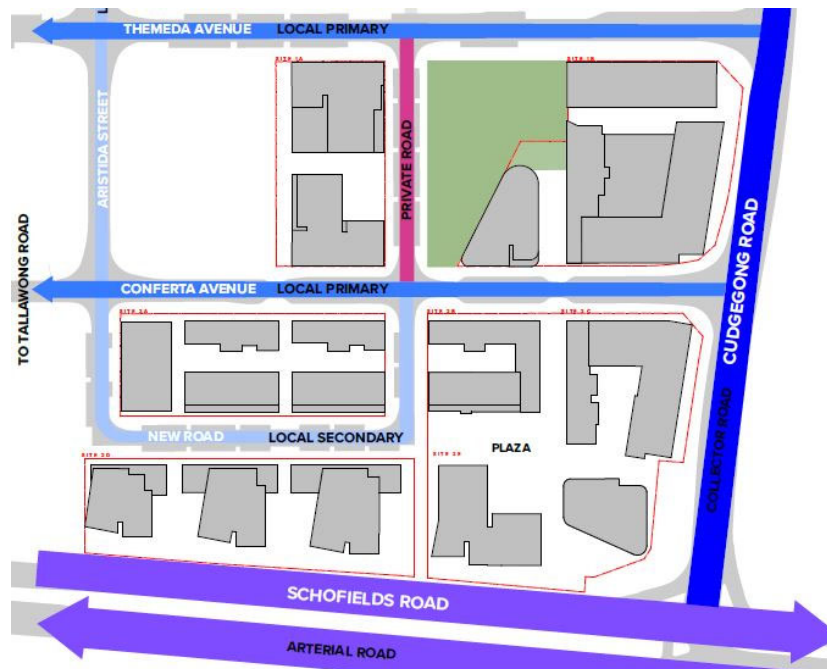


Figure 21:

Proposed  
amendments to  
street network  
and hierarchy

#### 4.5 Amendment to Ownership Diagram

Having regard to the agreed changes to the design and also the ownership structure for the park and adjacent road, it is proposed to amend the approved 'ownership' diagram as illustrated in the Addendum Urban Design Report prepared by Turner architects.

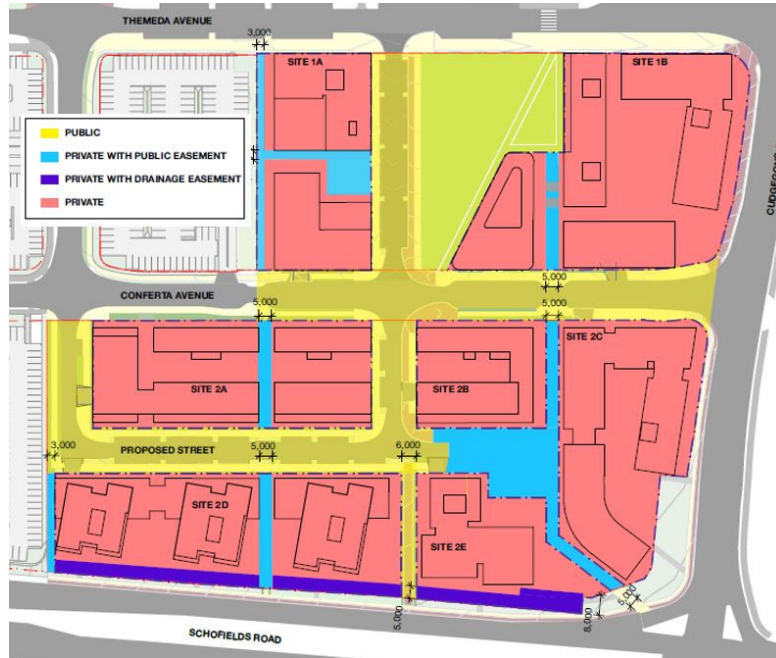


Figure 22:

Approved Concept  
Plan ownership plan

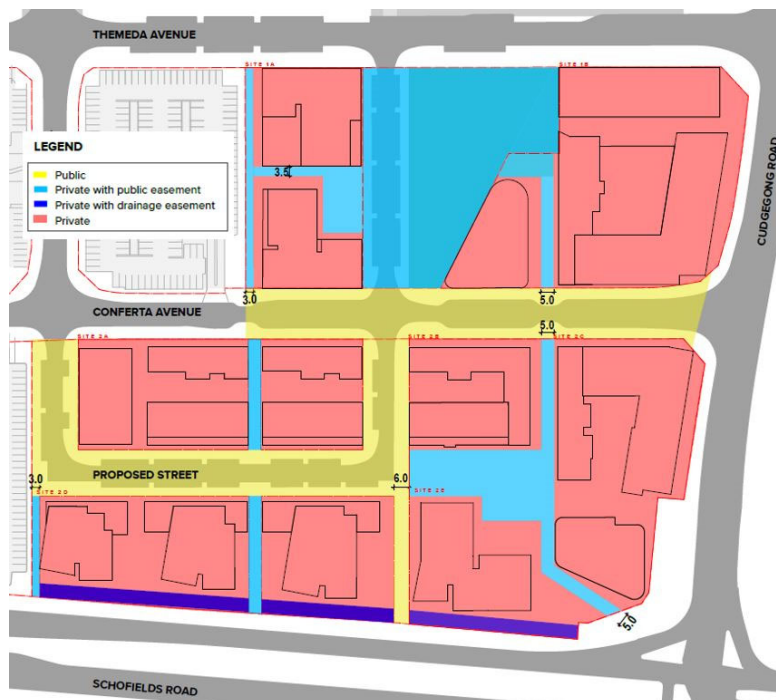


Figure 23:

Proposed amendments  
to ownership plan

#### 4.6 Amendment to the minimum residential visitor rate

Condition A19 of the approved Concept Plan SSD 9063 nominates minimum car parking rates, including a minimum residential visitor rate of 1 space per 10 apartments. The proposed amendment seeks to reduce this minimum to 1 space per 35 apartment as a direct response to Condition B12 of the Concept Plan SSD 9063 which requires that the application is to include a parking strategy to maximise efficiency of car parking spaces including the consideration of sharing use of car spaces between land uses.

The provision of 1 visitor space per 35 apartments is considered adequate for the following reasons:

- Reduced visitor parking would address, to some extent, the transit orientated development guiding principles to minimise the parking provision.
- Residential visitors can, and are likely to, use the retail parking capacity for visits to the site which supports a reduction in exclusive residential visitor parking.
- Minimising visitor parking would encourage visitors to use the public transport during peak periods.
- In addition to residential visitor parking within the basements, there would be an opportunity for visitors to utilise the 23 car parking spaces to be provided in the new private road and 34 on street parking in the new road.
- Residential visitors tend to visit outside of peak working week hours and based on the car park survey and satellite images there would be plenty of parking available in the 1,000 space commuter car parks that would be underutilised after 4pm during weekdays and through the weekends which is the peak time for visitors.



## 5.0 STATUTORY PLANNING FRAMEWORK

### 5.1 Environmental Planning and Assessment Act 1979

Section 4.55(2) of the Environmental Planning and Assessment Act 1979 empowers the consent authority to modify a development consent, as follows:

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 the 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 5) 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.

In the consideration of the issue of whether or not the amended proposal is 'substantially the same development' it is of particular relevance to note that the approved development application is a 'Concept Development Application' pursuant to Section 4.22 of the *Environmental Planning & Assessment Act 1979* and by definition the approval is for one that is only conceptual in nature. In the Land & Environment Court case of *Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] 106 LGERA 298, we are reminded that it is the consent that is to be modified. In the circumstance of the subject development consent, there is no approval granted for any physical works whatsoever and the nature of the consent as being conceptual rather than precise in character is such that inherent flexibility is afforded to the consent authority in modifying this approval whilst remaining substantially the same development.

Also of relevance to the issue of whether or not the amended proposal is 'substantially the same development', is that the Land & Environment Court consistently describes the Section 4.55 modification provision (previously Section 96) as "beneficial and facultative" and it is intended to assist the modification process rather than to act as an impediment to it and "It is to be construed and applied in a way that is favourable to those who seek to benefit from the provision" (*North Sydney Council v Michael Standley & Associates Pty Limited* [1998]).

The amended proposal retains the fundamental components of the approved site layout and spatial characteristics of the development. Conceptually, the proposal remains a 2-8 storey mixed use development with the same site framework of streets, open spaces and pedestrian and cycle connections. Whilst some components are proposed to be changed more than other components, collectively the amended development is conceptually the same as that which has previously been approved. The concept remains for a mixed use development with publicly accessible open space, the general site layout and arrangement of open space and buildings is the same, the collection of indicative uses is the same, and the vehicle access and egress and internal circulation is essentially the same. Whilst there are some changes to some building footprints and heights, as well as a change to the future ownership of some components, these changes alone do not render the concept application radically transformed when considered within the context of the overall approved concept for the site.

The overall amended proposal appears generally the same as the approved development, and there is no change proposed to the quantum of open space or the density of the development. Furthermore, the proposed amendments to the approved concept plan do not adversely affect an aspect of the approved development that was considered an essential or critically important component of the overall development as originally approved

The proposal is therefore considered to be “essentially or materially” the same as the approved development and on this basis the proposal is appropriately categorised as being “substantially the same” as required by Section 4.55(2) of the EP&A Act.

## 5.2 Environmental Assessment

In accordance with Section 4.55(3) of the Environmental Planning and Assessment Act 1979 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.

The Environmental Impact Statement prepared by MG Planning (June 2018) and the subsequent Response to Submissions considered during the assessment of SSD 9063 addressed the following environmental impacts:

- Compliance with statutory plans
- Built form
- Design Quality Guidelines
- Design excellence
- Open space provision
- Public domain design
- Crime Prevention Through Environmental Design
- Land use mix
- Residential density
- Solar access and overshadowing
- Wind impacts
- Transport and accessibility
- Social impacts
- Economic impacts
- Noise and vibration
- Heritage and archaeology

- Visual impacts
- Biodiversity
- Bushfire
- Stormwater and flooding
- Soil and contamination
- Air quality
- Waste management
- Development contributions

The Secretary's Assessment report for SSD 9063 identified the following key assessment issues:

- Built forms
- Density
- Building Heights
- Open Space
- Public Domain
- Traffic Generation
- Car Parking Rates

The following assessment considers the relevant matters under Section 4.15(1) and demonstrates that the development, as proposed to be modified, does not compromise the merits of the existing approval, or provide any significant additional environmental impacts.

#### 5.2.1 Compliance with Statutory Plans

The proposed modifications to the approval do not affect the development's compliance with the relevant environmental planning instruments with the exception of the height control which is discussed further in this report. This is summarised in the table below.

Instrument	Comment
State Environmental Planning Policy (State and Regional Development) 2011	The proposed modifications do not alter the development's consistency with the relevant provisions of the SEPP.
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	The proposed modifications result in changes in relation to the approved heights with some building envelopes increasing in height and some building envelopes reducing in height. The increases in height result in some minor to moderate additional variations to the 26 metre height control which is discussed further in this statement. The proposed modifications do not alter the developments consistency with any other provisions of the SEPP.
State Environmental Planning Policy 65 (Design Quality of Residential Flat Development)	The proposed modifications do not alter the development's capacity to accommodate a detailed design which achieves compliance with the SEPP.
State Environmental Planning Policy (Infrastructure) 2007	The proposed modifications do not alter the development's consistency with the relevant provisions of the SEPP.

Instrument	Comment
State Environmental Planning Policy 55 (Remediation of Land)	The proposed modifications do not alter the development's consistency with the relevant provisions of the SEPP.

### 5.2.2 Built Form

During the design development of the detailed application for the site, a number of refinements to the approved building envelopes have been identified, and a comparison is provided in the table to Section 4.2 of this statement. The basis for these refinements are addressed below:

Site	Basis for amendment (Note: refer to table in Section 4.2 for diagrammatic comparison between approved and proposed layout)
1A	<p>The approved buildings in site 1A are currently both L shaped buildings. The proposed amendment seeks to slide the protruding element of each L for the following reasons:</p> <ul style="list-style-type: none"> <li>Locally shifting the built form maximises solar access to the plaza and building façade</li> <li>Shifting both legs inwards creates a step down in the edge of the buildings which softens the built form as viewed from the park to the east and the commuter car park to the west and also provides opportunities for extended outdoor areas where the step occurs.</li> </ul>
1B (Park)	<p>The proposal seeks to reduce the northern extent of Building 1B for the following reasons:</p> <ul style="list-style-type: none"> <li>It achieves an increase to the size of the park</li> <li>It provides for a direct visual and physical connection to the pedestrian boulevard from the commuter car park</li> </ul>
1B Retail	<p>The proposal seeks to reconfigure the gaps and arrangements of the buildings which form the retail component on the north-eastern corner of the site by creating a bar building along the northern edge and a U-shaped building for the remainder. This changes are for the following reasons:</p> <ul style="list-style-type: none"> <li>They achieve a more logical and permeable pedestrian network through this part of the site which better connects with the adjacent park</li> <li>They facilitate a more sensible retail layout and positioning of a metro supermarket in a location which does not adversely impact on edge activation</li> <li>The changes define the corner of Cudgegong Road and Conferta Ave, creating a gateway to the residential precinct</li> </ul>
2C	<p>The approved building envelopes in Site 2C result in an excessively long north-south building and decreased height to Cudgegong Road instead of decreased height internally which is of greater benefit. The long building will result in a dominant façade and poor urban design outcome, as well as compromised internal amenity. The lower height to the edge of the site means that that more apartments within the site are exposed to traffic noise, and the higher building</p>

Site	Basis for amendment  (Note: refer to table in Section 4.2 for diagrammatic comparison between approved and proposed layout)
	<p>within the site results in a visually overbearing scale adjacent to the primary north-south pedestrian route when compared to a lower building along this edge.</p> <p>To remedy these issues, it is proposed to reverse the heights at the northern end, with a lower 4 storey element on the western side adjacent to the primary north-south pedestrian link within the site, and an 8 storey element providing a more defensive response to Cudgegong Road. In addition, the main north-south building length is broken and a stand alone 'object' building is located at the south-eastern corner of the site. These changes achieve the following benefits:</p> <ul style="list-style-type: none"> <li>• A more human scale of building internally along the primary north-south pedestrian thoroughfare.</li> <li>• A more defensive scale to Cudgegong Road which achieves a more intimate circumstance within the site and shields the site from noise impacts associated with Cudgegong Road</li> <li>• Improved solar access to plaza directly to the west of site 2C</li> <li>• Reduced building lengths to increase visual and physical permeability through the site, and to improve the environmental performance of the buildings.</li> <li>• The achievement of a 'marker' building on the primary south-eastern corner of the site.</li> </ul>
2D	<p>The proposal seeks a minor reconfiguration to the alignment of the facades for the three uniform buildings in site 2D to achieve the following improvements:</p> <ul style="list-style-type: none"> <li>• Improved solar access and outlook</li> <li>• Reduce upper building widths to increase separation and outlook from the public domain</li> </ul>

All of the proposed modifications to the approved building envelopes are recognisable as clear improvements to the approved design and maximise the amenity within the development for future occupants, as well as the amenity of the public domain and the functionality of the retail component of the development. There are no adverse impacts resulting from these changes.

### 5.2.3 Open Space

The Concept Plan SSD9063 identifies a central park in Site 1 which was anticipated to be constructed and dedicated to Blacktown City Council. Deicorp approached Blacktown City Council to consider private ownership of the park to deliver a higher quality public realm that is maintained at the cost of the stratum to deliver a better outcome whilst also enshrining public accessibility. Blacktown City Council have agreed in principle for Deicorp to retain ownership of the park and the adjoining road.

This provides the following opportunities and benefits:

- The capacity for more flexibility in relation to the design of the park and a more bespoke design for the park beyond Council's standard public domain finishes and fixtures;
- A more frequent maintenance regime ;
- Reduced financial burden on Council;



- The ability to locate a basement level underneath the park which achieves the following benefits:
  - Consolidated entry and exit points to the basement, providing clearer legibility and way-finding across the town centre
  - Improved connectivity between the parking and the retail commercial tenancies across Site 1
  - A less complicated retail ,visitor parking strategy consolidated across bigger plates on fewer levels
  - Clearer distinction/separation between retail and residential vehicular movements and parking areas
  - A reduction in the depth of excavation required across the site.

Notwithstanding the benefits of locating basement levels under the park, it is necessary to ensure that there is sufficient soil depth and volume, as well as drainage and irrigation, to achieve a landscaped outcome which is not compromised. A soil structure analysis has been prepared by SESL Australia in support of the detailed development application which has concluded that an optimal depth of soil for plant and tree growth is 1.5 metres overall depth from the top of structure to the finished ground level. The basement levels are to be located to achieve a soil 'vault' for the park with a minimum depth of 1.5 metres.

Having regard to the above, the provision of a soil 'vault' for the park in lieu of deep soil is demonstrated to have the capacity to achieve the same landscape outcome as envisaged for the site under the approved Concept Plan.

#### **5.2.4 Road Design**

The Concept Plan SSD9063 identifies a new north-south road in Site 1 to the west of the park, which connects Themeda Avenue with Conferta Avenue, which was intended to be constructed and dedicated to Blacktown City Council.

However, during the course of design development this road has been redesigned with a raised threshold to match the adjacent footpath level and a paved surface treatment, as illustrated in Figure 25 below. This achieves a significantly improved public domain outcome which prioritises pedestrian primacy, achieves an improved relationship between the eastern and western sides of Site 1, and visually extends the perceived size of the park.

Blacktown City Council have been consulted in relation to this change and support this design approach, and have agreed in principle for Deicorp to retain ownership of the park and the adjoining road. Accordingly, it is proposed that this road will be retained in private ownership and that public access of the road will be secured on title.



Figure 24:

Indicative north-south street design for Site 1 (Source: Clouston Associates)



Figure 25:

Proposed north-south private street design

### 5.2.5 Ownership

Having regard to the agreed changes to the ownership structure for the park and adjacent road, it is proposed to amend the approved 'ownership' diagram as illustrated in the Addendum Urban Design Report prepared by Turner architects and Figure 19 above.

### 5.2.6 Height

In accordance with clause 4.3 'Height of Buildings' the height of a building on any land is not to exceed the maximum height shown for the land on the 'Height of Buildings Map'. The maximum height shown for both Site 1 and Site 2 is 26 metres as shown in Figure 26.

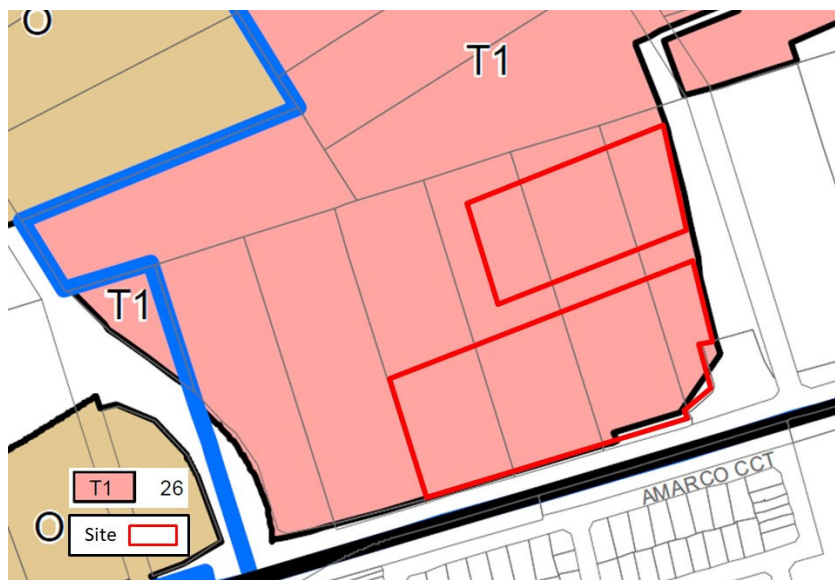


Figure 26:

Extract from  
SEPP height of  
buildings map

The Concept Plan SSD 9063 provides for a range of building heights from 2 storeys to 8 storeys, as anticipated by the 26 metre height control. However, the Concept Plan approval also established that some variation to the height control is necessary due to the sloping topography of the site, the need for higher floor to ceiling heights for the commercial components of the project, and also the need for lift overruns to provide access to roof tops for high amenity communal open space areas. The Concept Plan SSD 9063 was accompanied by a Clause 4.6 request in relation to the various height variations, which was supported by the Department of Planning, Infrastructure and Environment.

Notwithstanding the above, as part of the preparation of this detailed development application, an analysis of the approved heights of the building envelopes by Turner Architects has identified that the heights of some of the buildings need to increase further for the following three reasons:

- Insufficient height was provided for the ground floor of the retail component with only 4 metre floor to ceiling heights instead of 6 metre;
- Lift overruns were not provided for many buildings; and
- Refinement of ground floor levels of various buildings to properly deal with the significant cross falls across the site and achieving appropriate accessibility grades as well as relationships between ground floor levels and the surrounding public domain.

Accordingly, it is proposed to amend the approved heights with minor to moderate changes across the Concept Plan.

Notwithstanding the increase to the heights for some buildings, most of the parapets in Site 2 are actually lower than the approved parapet heights in the Concept Plan. Furthermore, the proposed height variations do not result in any change to the approved number of storeys.

A visual representation of the approved Concept Plan and modified Concept Plan with the 26 metre height plane overlay is provided in Figures 11 and 12, whilst the table below these figures provides a detailed comparison of the proposal and approved heights.

A detailed discussion in relation to the basis for the increased floor to ceiling height and lift overruns is provided in Section 4.31 of this Statement. In addition, a detailed discussion in relation to shadow impacts is provided in Section 4.32.

Strict compliance with the building height control is considered to be unreasonable and unnecessary under the circumstances for the following reasons:

- The approved Concept Plan SSD9063 has already established the principle that some height variation is acceptable for the subject site and the proposed detailed design reflects this, albeit with some minor to moderate increases to provide sufficient floor to ceiling heights for the commercial component, to provide lift overruns which provide access to rooftop amenities, and to properly deal with the significant cross falls across the site and achieving appropriate accessibility grades as well as relationships between ground floor levels and the surrounding public domain. Any reduction in height would compromise these outcomes, but with no benefit to the public interest.
- Notwithstanding the proposed additional variations to the height control, it is also noted that the parapets of many of the buildings have been reduced and in addition the proposed development still presents a variety of storeys from 2 storeys up to a maximum of 8 storeys in accordance with the envisaged scale of development for the site by the planning controls.
- The proposed increased height variation under this modification to the approved Concept Plan does not result in any change to the approved maximum number of storeys.
- The areas of variation associated with the building parapets are predominantly quite minor, with the components with the greatest extent of variation being the lift overruns which are specifically located centrally within the buildings such that they will not be readily visible from the public domain.
- The proposed areas of variation do not result in any adverse impact to adjacent properties, as discussed above.
- Strict compliance with the height control would result in a significant reduction in density when compared to the 9,000 square metres of retail and commercial floorspace and 1,100 apartments approved for the site under the Concept Plan.
- The non-compliance with the height control ultimately facilitates an improved urban form for the development as it allows for a variety of building heights, including up to 8 storeys as anticipated by the control. A strict application of the height control would likely discourage this variation in scale and lead to redeploying floor space to lower buildings which would unnecessarily dilute the diversity of scale which has been achieved for the development.

(Note: the Land & Environment Court has established that the legal mechanism of a Clause 4.6 request is not required for a proposal variation to a development standard in the context of an application for

modification of an approved development. The relevant judgments (originating with North Sydney Council v Michael Standley & Associates Pty Ltd [1998] NSWSC 163) say that section 96 is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application".)

## 6.0 CONCLUSION

This application seeks to modify State Significant Development 9063 for a Concept Plan for a mixed use precinct at 1-15 and 2-12 Conferta Avenue, Rouse Hill (Tallawong Station Precinct South site).

In particular, the application seeks approval for modifications to facilitate the following primary amendments:

- Amendment to the building footprints and envelopes for sites 1A, 1B, 2C and 2D;
- Amendment to the heights of the envelopes;
- Amendment to the basement locations, deep soil locations, and soil on slab;
- Amendment to the street design for the street to the west of the park;
- Amendment to the ownership diagram; and
- Amendment to the minimum residential visitor parking rates.

The modifications have been presented to the Tallawong Station Design Review Panel and also Blacktown City Council.

The amended proposal retains the fundamental components of the approved overall layout and spatial characteristics of the Concept Plan approval. However, the amended proposal achieves a better outcome in that it provides improved resolution of building configurations and the public domain.

As detailed in this submission the proposed modifications may be made by the consent authority in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act 1979 as the proposed amendments do not radically transform the proposal or alter the overarching fundamental characteristics of the original approval, and so the amended proposal is appropriately categorised as being “substantially the same” as the approved development.

The proposed amendments remain consistent with the aims and objectives of the relevant environmental planning instruments and will not result in any adverse impacts on the amenity of the locality. Accordingly, the proposed amendments are considered acceptable as they represent design development and improvement to the approved Concept Plan and is recommended to be granted development consent.