

**Section 75W Application to Modify Stage 1 Project Application MP09_0219
Shepherds Bay**


On Behalf of Holdmark Property Group

November 2013

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APPENDIX	DOCUMENT	PREPARED BY
1	Photomontages Architectural Drawings External Finishes Sample Board Unit Schedule SEPP 65 & RFDC Compliance Table	Robertson + Marks
2	Access Review	MGAC
3	Analysis Report - SEPP 65 Solar Access and Natural Ventilation	Steve King Consultant Architect
4	BASIX Certificate & ABSA Stamped Plans	Integreco Consulting
5	Landscape Concept Plans	Place
6	Letter from CBRE	CBRE
7	ESD Target Clarification Letter	Integreco Consulting
8	Revised Draft Statement of Commitments	Holdmark
9	Project Approval MP09_0219	-

Job No	Description of Issue	Prepared By / Date	Reviewed by Director	Approved by Director
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Note: This document is preliminary unless it is approved by Director of City Plan Strategy and Development Pty Ltd.				

1 INTRODUCTION

This Report has been prepared by City Plan Strategy and Development (CPSD) on behalf of Holdmark Property Group for an amendment to Project Approval MP09_0219 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (“EP&A Act”). MP09_0219 permits the construction of a residential flat building development at No. 41 Belmore Street, Ryde, including: -

- *“construction of two attached residential flat buildings between 3 and 10 storeys in height;*
- *basement car parking over three levels;*
- *landscaped communal open space between the two buildings;*
- *a new landscaped publicly accessible foreshore link from Hamilton Crescent to Rothesay Avenue;*
- *stormwater and infrastructure / utility works.”*

This application seeks to modify the Stage 1 Residential Flat Building including the floor plan and basement parking layout within the approved building envelope. The purpose of these modifications is to improve the amenity and liveability of the residential units and to suit the preferences and trends of the current property market. The dwelling yield and mix are also proposed to be modified. The proposal also seeks improvements to the treatment of facades at the public domain level, including providing additional units where the topography of the site allows.

This application also seeks to modify the timing of the delivery of the public open space located at the central portion of the foreshore. It is sought to be provided in conjunction with the Stage 2 to which it physically adjoins. Similarly, the construction and landscaping boundaries of Stage 1 are proposed to be revised to enable Stage 1 to be constructed separately to the delivery of the foreshore link which is to be completed in association with the adjoining Stage 2. Condition E24 *Easement in Gross* is proposed to be revised to reflect this staging.

This proposal also seeks to modify the wording to Condition B27 to allow for the location of the service infrastructure / services to be approved by the Accredited Certifier. Several conditions are also proposed to be updated / deleted to reflect the current scheme in relation to disabled access recommendations, assessment of the natural ventilation to the units, and requirements of the ESD targets.

This application, whilst seeking amendments to the proposal, is essentially the same development as approved, and provides a design scheme which is architecturally a positive and high quality design outcome which is responsive to current market demand.

These modifications have been discussed with Council prior to submitting this application.

Further details of the modifications are outlined in **Section 3** of this report.

The purpose of this report is to describe the above amendments in detail; review the applicable planning regime relating to the proposal; assess the degree of compliance; and where impacts are identified, propose appropriate measures to mitigate any harm to environmental amenity.

Section 2 of this report provides a detailed description of the site and background information in relation to the existing approval for the site.

Sections 3 and 4 outline the proposed modifications to the approved Project Application and assesses the environmental impacts of the proposal.

Section 5 details the proposed modifications to the conditions of consent.

Sections 6 and 7 detail the recent consultation with Ryde Council and addresses the applicable statutory context.

Section 8 concludes that the proposed modifications are reasonable and appropriate and it is recommended that the application be approved.

This report has been prepared in conjunction with the Architectural Drawings prepared by Robertson + Marks which can be found at **Appendix 1** and other supporting reports.

2 BACKGROUND

2.1 Meadowbank Employment Area

The site is part of the Meadowbank Employment Area and is identified within State policy (Metropolitan Strategy and Draft Inner North Sub-regional Strategy) as a *Small Village* which benefits from a local shopping centre with two supermarkets and a number of retail outlets as well as a small strip of shops at the railway station. These shops are easily accessible by foot being within 400m of the main site. The maximum distance between the site and the railway station or ferry wharf is 1km. Bus services are also available from Church Street, Victoria Road, Constitution Road and Bowden Streets.

The draft strategy set targets of an additional 60,000 jobs and 30,000 new dwellings for the subregion by 2031. The Metropolitan Plan sets revised targets for the subregion of an additional 62,000 jobs and 44,000 dwellings by 2036.

A key driver of the Draft Strategy is to achieve increased residential densities within the walking radius of smaller local centres and public transports. The introduction of high density residential development in a locality with a high degree of accessibility to transport, services and employment presents a strong contribution to the dwelling target for Ryde LGA as updated by the Metropolitan Plan and satisfies the key directions and will positively contribute to meeting the targets within the Draft Strategy.

Although the site is located within the Meadowbank Employment Area, it is acknowledged that this area is no longer characterised by employment, light industrial and manufacturing land uses. The local planning strategy guides the redevelopment of this area for the purpose of providing modern built forms which are sensitive to the topography and characteristics of the site which are predominantly suited to high density residential forms. This provides a strong contribution to dwelling yields in a setting which is highly accessible to public transport routes and the redevelopment of the streetscape and character of this former employment area.

2.1 The Concept Plan Site

The site is a key mixed use redevelopment precinct which is located on the Shepherd's Bay Foreshore in Ryde and Meadowbank. The site is located approximately 14 kilometres north-west of the Sydney CBD and is within the Ryde Local Government Area (LGA).

The main portion of the Concept Plan site forms an amalgamated redevelopment precinct with direct frontage to Bowden Street, Constitution Road, Belmore Street and Rothesay Avenue. The main site is also dissected by Nancarrow Avenue and Hamilton Crescent. The site also consists of the 'Church Street site' which is located to the south-east of the main site which is bound by Church Street, Well Street, Waterview Street and The Loop Road. The total combined site is approximately 6.7 hectares as demonstrated in **Figure 1** below.

The site benefits from being in the vicinity of regular rail, ferry and bus services. The main portion of the site is within 350 metres to 1km walking distance from the Meadowbank Railway Station and the Village Plaza and 250 metres to 1km from the Meadowbank Ferry Wharf. The

Church Street site is also within 200m of bus services on Church Street, and approximately 1km from the railway station and ferry wharf.

The site forms part of the former Meadowbank Employment Area which is experiencing a period of transition from manufacturing and light industrial uses towards the development of a high density mixed use neighbourhood. The site and surrounds is the subject of previous and ongoing improvements to prepare the site for its future built form. These improvements include the demolition of vacant industrial buildings, contributions to Rail Corp for improvements to the Railway Station and contributions to Ryde Council for the purpose of improving the stormwater management systems for the benefit of the greater locality.

The site has a varied topography which falls to the Shepherd's Bay foreshore of up to 18 metres, as well as a fall of approximately 10 metres from the east to west along Constitution Road. The Church site is relatively level.

2.2 Approved Concept Plan Scheme MP09_0216

The Stage 1 Project Application site is within the Concept Approval MP09_0216.

The Concept Approval MP09_0216 approved by the Planning Assessment Commission on 6 March 2013. MP09_0216 is for a mixed use residential, retail, commercial development including: -

"Use of the site for a mixed use development including residential, retail, commercial and community uses incorporating:

- *building envelopes for 12 buildings incorporating basement level parking;*
- *infrastructure works to support the development including:*
- *upgrades to the local road network;*
- *stormwater infrastructure works;*
- *publically accessible open space and through site links; and*
- *pedestrian and cycle pathways."*

It is noted that Part B of the Concept Approval required various amendments to the Concept Plan as follows: -

"Amended Concept Plan

B1 The Concept Plan shall be amended to:

- (a) comply with the modified maximum heights (as per plans in Schedule 5), setbacks etc. under this approval and the project application approval for Stage 1 (MP09_0219). The maximum building height applies to either the number of storeys or RL levels, whichever is the lower;*
- (b) provide at least one contiguous open space, of a minimum of 3,000m², to accommodate both active and passive recreational needs. The open space shall include deep soil area and receive a minimum of 2 hours of sunlight to a minimum of 50% of the area on 21 June;*
- (c) provide a public domain plan which illustrates the proposed public domain treatment including streets and setback areas, landscaping, lighting and public*

and communal open spaces and which is in accordance with Ryde City Council's Public Domain Technical Manual;

- (d) increase the width of the proposed through site links/view corridors to a minimum width of 20m;*
- (e) provide an integrated water sensitive urban design (WSUD) strategy for the entire site; and*
- (f) include a pedestrian and cycleways plan that demonstrates that the proposed routes are both viable and integrated with Council's plans for the surrounding area.*

The amended concept plan, demonstrating compliance with these modifications shall be submitted to, and approved by, the Director General prior to the issue of the first construction certificate.

Sustainable Travel Plan

B2 Prior to issue of an Occupation Certificate for Stage 1 or prior to the submission of a Development Application for future stages (whichever occurs first), a Sustainable Travel Plan for the Concept Plan site shall be submitted to and approved by the Council. Options for provision of a Car Sharing Scheme for the site are to be explored and incorporated into the Sustainable Travel Plan as is a Parking Management Strategy."

On 24 June 2013 the Department of Planning and Infrastructure confirmed their satisfaction with condition amendments and thus discharged Condition B1 of the Concept Approval MP09_0216.

2.3 Approved Stage 1 Project Application MP09_0219

The site benefits from a Stage 1 Project Approval (MP09_0219) (refer to **Appendix 9**). This approval relates to No. 41 Belmore Street Ryde which fronts Nancarrow Avenue, Belmore Street and Rothesay Avenue as demonstrated in **Figure 1** below.

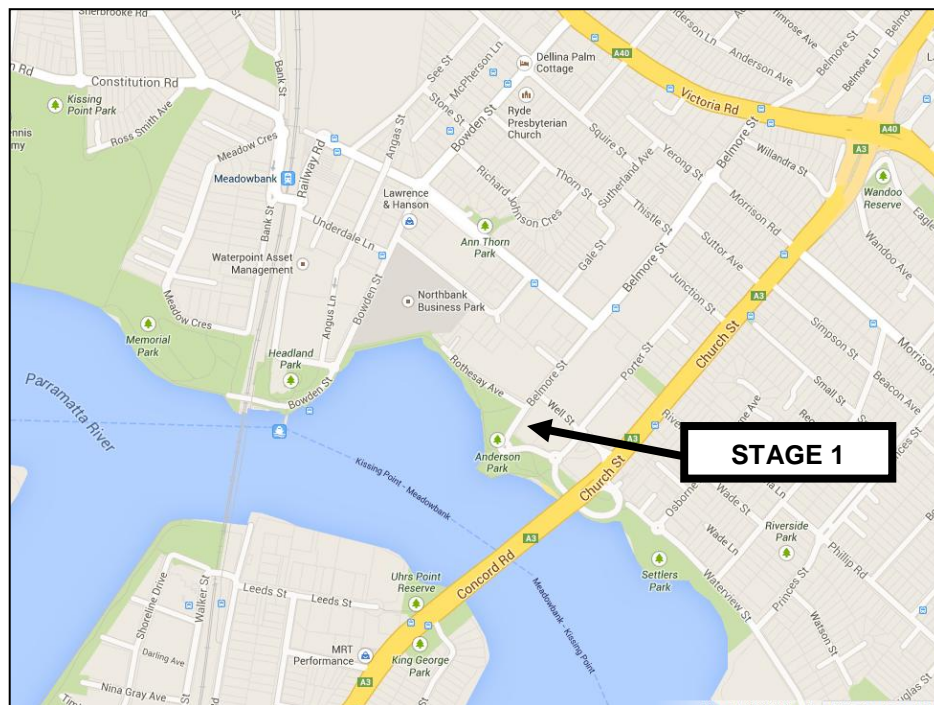


Figure 1: The locality (Source: Google Maps)

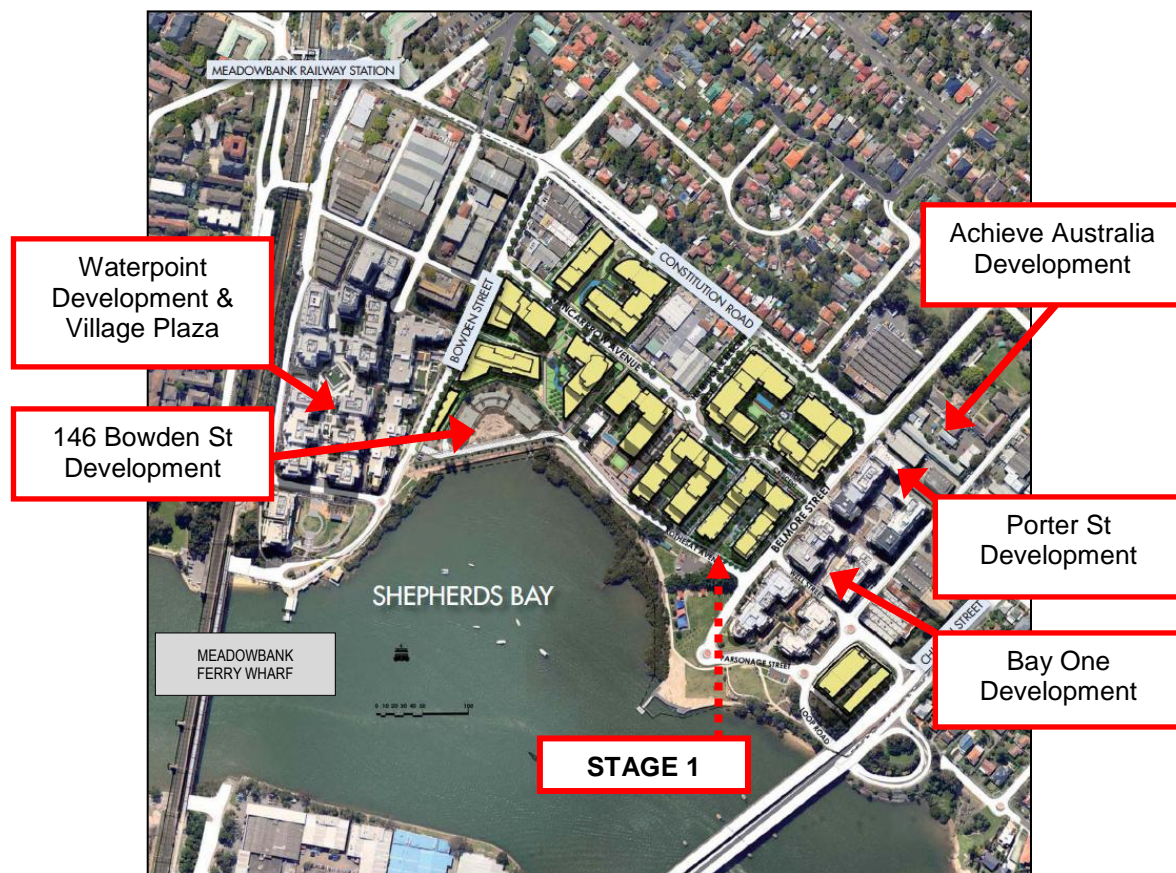


Figure 2: Aerial view of the site and locality. The subject site is identified in yellow. This Figure also identifies the existing and approved mixed use developments in the Shepherds Bay area (Source: R+M - the PPR submitted with the Shepherds Bay Concept Approval MP09_0216)

Stage 1 was approved by the Planning Assessment Commission on 6 March 2013 for a residential flat building development including: -

“Construction of two attached residential flat buildings between 3 and 10 storeys in height;

- basement car parking over three levels;*
- landscaped communal open space between the two buildings;*
- a new landscaped publicly accessible foreshore link from Hamilton Crescent to Rothesay Avenue;*
- stormwater and infrastructure / utility works.”*

As a result of the recommendations from the Department of Planning and Infrastructure, the Concept Approval was approved by the Planning Assessment Commission.

In association with the Concept Approval (MP09_0216) the approved scheme required the introduction of extensive public open spaces, drainage reserves and through site links which are intended to be publicly accessible and maintained in private ownership, and the reorganisation of the site to provide at least one contiguous open space, of a minimum of 3,000m². Condition B2A states that this contiguous open space area is to be provided prior to the issue of the Occupation Certificate for Stage 1.

It is noted that Part B of the Concept Approval required various amendments to the Concept Plan as follows: -

“Design Modifications

B2 Prior to the issue of the first Construction Certificate, plans and specifications demonstrating compliance with the following shall be submitted and approved by the Director General.

(a) Built form modifications as follows:

- (i) deletion of 1 storey (Level 6) from the north-eastern block (all apartments accessed by Lobby 4) on Belmore Street;*
- (ii) deletion of 2 storeys (Level 4 and 5) from the mid-block (all apartments accessed by Lobby 5) on Belmore Street;*
- (iii) deletion of 2 storeys (Levels 3 and 4) from the south-eastern block (all apartments accessed by Lobby 6) on Belmore Street;*
- (iv) deletion of 2 storeys (Levels 10 and 11) from the northern block (all apartments accessed by Lobby 3) on Hamilton Crescent;*
- (v) provision of a minimum setback of 10 metres to Levels 2, 3 and 4 behind the façade of the 5 levels below to Rothesay Avenue;*
- (vi) deletion of below ground level apartments GF-14 and GF-15 fronting Hamilton Crescent;*
- (vii) provision of a minimum 18 metres separation between the north and north-eastern blocks (accessed by Lobbies 3 and 4) on Levels 3, 4 and 5;*
- (viii) provision of light wells/sky lights to all apartments on the uppermost levels of the building which do not achieve 2 hours solar access to living rooms;*
- (ix) increased setback of the basement, upper basement and lower ground floor levels to be consistent with the ground floor setback from the Hamilton Crescent boundary and provide a deep planting zone within the setback;*

(b) parking for the development at the following rates:

- (i) 0.6 – 1 space per 1 bedroom apartment;*
- (ii) 0.9 – 1.2 space per 2 bedroom apartment;*
- (iii) 1.4 – 1.6 spaces per 3 bedroom apartment;*
- (iv) 1 visitor space per 5 apartments;*
- (v) 1 secure bicycle locker per 10 car parking spaces (in addition to outdoor bicycle racks); and*
- (c) provision of increased sill heights (minimum of 1.5 metres above the finished ground level of the apartment) to north-east facing living areas and bedrooms of Apartment 4-06 and south-west facing bedrooms of Apartment 3-18.”*

On 8 August 2013 the Department of Planning and Infrastructure confirmed their satisfaction with condition amendments and thus discharged Condition B2 of the Project Approval MP09_0219.

2.4 S75W Modification Application to the Concept Plan Scheme MP09_0216

On 1 November 2013, a S75W Modification Application to the Concept Approval (MP09_0216 Mod 1) was lodged with the DoPI, seeks to reorder the Indicative Staging Plan. The references to each stage in the conditions of consent in the Concept Approval are also sought to be updated to reflect the new staging references. This Modification Application also seeks to update the building height plan to reflect the approved Stage 1 building heights and to allow the building form of the Stage 4 (formerly Stage 2) development to comprise a six storey corner feature which will improve the rhythm of the physical form of the building in relation to the public domain. Clarification is also sought in relation to the wording of several conditions of consent in relation to the allowable height of basements above ground level given the sloping topography of the site, the treatment of service infrastructure and requirements of the ESD targets.

This subject application reflects the proposed modifications to the Concept Approval.

3 PROPOSED MODIFICATIONS

3.1 REASONING FOR THE PROPOSED MODIFICATIONS

The proponent has recently undertaken detailed consideration and planning of the actual demolition and construction processes for the redevelopment of the Concept Plan site. A key driver of this planning is based on an emphasis on delivering the project in an organised manner which delivers the infrastructure and open space areas without risking their potential damage during the future development processes of the subsequent Stages of the Concept Plan.

As a result, a S75W Modification Application to the Concept Approval (MP09_0216 Mod 1) which was recently lodged with the DoPI, seeks to reorder the Indicative Staging Plan as demonstrated in **Figure 3** below. The references to each stage in the conditions of consent in the Concept Approval are also sought to be updated to reflect the staging references below.



Figure 3: Proposed indicative construction phasing plan submitted with the Modification Application to the Concept Approval (MP09_0216 Mod 1).

This application references the new indicative staging references for each building.

The relevance of revising the staging program is particularly important with regard to the provision of the contiguous open space area which, according to the current conditions of consent in the Project Approval (MP09_0219), is required to be provided prior to the issue of the Occupation Certificate of Stage 1. Should this be the case, the quality of the open space area, which adjoins the building at Stage 3 (formerly Stage 6), may be at risk given the standard demolition and construction processes involved, in particular given Stages 2 and 3 (formerly 3 and 6) will be unable to be accessed for construction purposes via Rothesay Avenue which will be constrained by the new open space area.

In addition, the floorplan layout and mix of the apartments have been reconsidered in light of the preference of the market to provide smaller and more affordable units. The modifications to the architectural plans reflect the proponent's desire to improve the quality and amenity of the development both in terms of the individual units and the public domain at street level.

The revised building form represents improvements which suit the preference of the future residents of the building and the general public who share the public domain areas and the through site links which this development offers.

The proposed modifications increase the dwelling yield within the approved building envelope.

Several conditions of consent are also proposed to be updated / deleted to accurately reflect this scheme and ensure the correct references to updated plans and reports are provided. Furthermore, the modifications satisfy the relevant Conditions of Consent of the Project Approval (MP09_0219) in relation to Condition B2 Design Modifications.

3.2 SUMMARY OF MODIFICATIONS

The application seeks to modify the approved Project Application MP09_0219 to provide an improved development scheme including: -

- Rearrangement of the floor plan layouts to provide a more desirable outcome which suits the preference of the property market and future residents. The layout of the dwellings provides a more efficient arrangement of space and improved amenity;
- The provision of oversized balcony spaces where the rooftop of the level below allows;
- Modification to the dwelling mix within the approved building envelope in response to market demand, and consequently increase to the dwelling yield;
- Revision of the grading of the foreshore link to provide a more gentle and accessible path of travel;
- Improvements of the development at street level to improve the relationship of the facades of the building to the public domain. This includes providing additional units at the lowest levels on the Belmore Street (eastern) frontage, adjoining the foreshore link to the west and at the north-western corner of the site;
- Revised schedule of external finishes to provide a mix of materials throughout the development which are long-lasting and visually interesting;
- A reduced setback of the basement level to the north and modifications to the layout of the basement parking levels and an additional level of parking to improve the efficiency of the parking, circulation spaces and services, whilst providing sufficient deep soil planting at the street setbacks;
- Modifying Condition B2A to enable the public open space area to be delivered in conjunction with the stage to which it physically adjoins;
- Updating Condition B23 *Disabled Access* to reference the Access Review Report submitted in support of this application;
- The deletion of Condition B26 Wind Tunnel Testing given an assessment of the natural cross ventilation of the units is undertaken in the accompanying independent report and this condition is satisfied;
- Rewording of Condition B27 *Service Infrastructure/Utilities* to allow for the location of the services infrastructure/utilities to be approved by the Accredited Certifier;
- Rewording of Condition B37 *ESD Measures* to allow for reasonable ESD measures to be applied; and

- Amended Landscape Concept Plans which identify the construction and landscaping boundaries of Stage 1, and the subsequent delivery of the foreshore link to be delivered in association with the adjoining Stage 2. Condition E24 *Easement in Gross* is proposed to be reworded to reflect this construction phasing and allow for the foreshore link to be completed in conjunction with the occupation of Stage 2.

The following table provides an analysis of the proposed modifications: -

Table 1: Comparative Table

	APPROVED SCHEME *	PROPOSED MODIFICATION
Height	Maximum height as per height plan	Maximum height as per height plan
Number of Dwellings	207 units	Revision of the unit mix to meet market expectations to provide 246 units
Dwelling Mix	1 bed = 48 units (23%) 2 bed = 133 units (64%) 3 bed = 26 units (13%)	1 bed = 84 units (34.1%) 2 bed = 126 units (51.2%) 3 bed = 36 units (14.6%)
Car Parking Spaces	278 car spaces over 3 levels	342 car spaces over 4 levels
Access	2 vehicular access points off Belmore Street	2 vehicular access points off Belmore Street

Note: * = The details of the Approved Scheme are representative of the amended design which was approved by the Department of Planning and Infrastructure on 8 August 2013 which satisfied the design modifications pursuant to Condition B2 of the Project Approval MP09_0219.

The proposal maintains the commitments detailed in the Statement of Commitments approved in Project Approval MP09_0219.

This report has been prepared with regard to the Architectural Drawings prepared by Robertson + Marks, which accompany the application at **Appendix 1**. The proposed changes are within the approved building envelope of the development and achieve the purpose of improving the amenity and liveability of the dwellings. In addition, the relationship of the apartment building to the public domain at street has been redesigned in order to improve this connection and quality of the streetscape.

This application is accompanied by the following supporting documentation: -

- Photomontages and Architectural Plans
- SEPP 65 and RFDC Compliance Table
- Access Review
- Independent Analysis Report – Solar Access and Natural Ventilation
- BASIX Certificate and ABSA Stamped Plans
- Landscape Concept Plans
- CBRE Apartment Mix Recommendation Letter
- ESD Target Clarification Letter
- Revised Draft Statement of Commitments

4 DETAILED DESCRIPTION OF THE PROPOSED MODIFICATIONS & ENVIRONMENTAL ASSESSMENT

4.1 TIMING OF THE CONSTRUCTION PHASING AND PARK

As detailed in the S75W Modification Application to the Concept Approval (MP09_0216) which was recently lodged with the DoPI, this application seeks to modify the timing of the delivery of the contiguous open space area which, according to the current conditions of consent in the Project Approval (MP09_0219), is required to be provided prior to the issue of the Occupation Certificate of Stage 1. In response to Condition B1 of the Concept Approval (MP09_0216) this open space area has been located at the central foreshore areas, which physically adjoins proposed Stage 3 (formerly Stage 6) as demonstrated in **Figure 4** below.

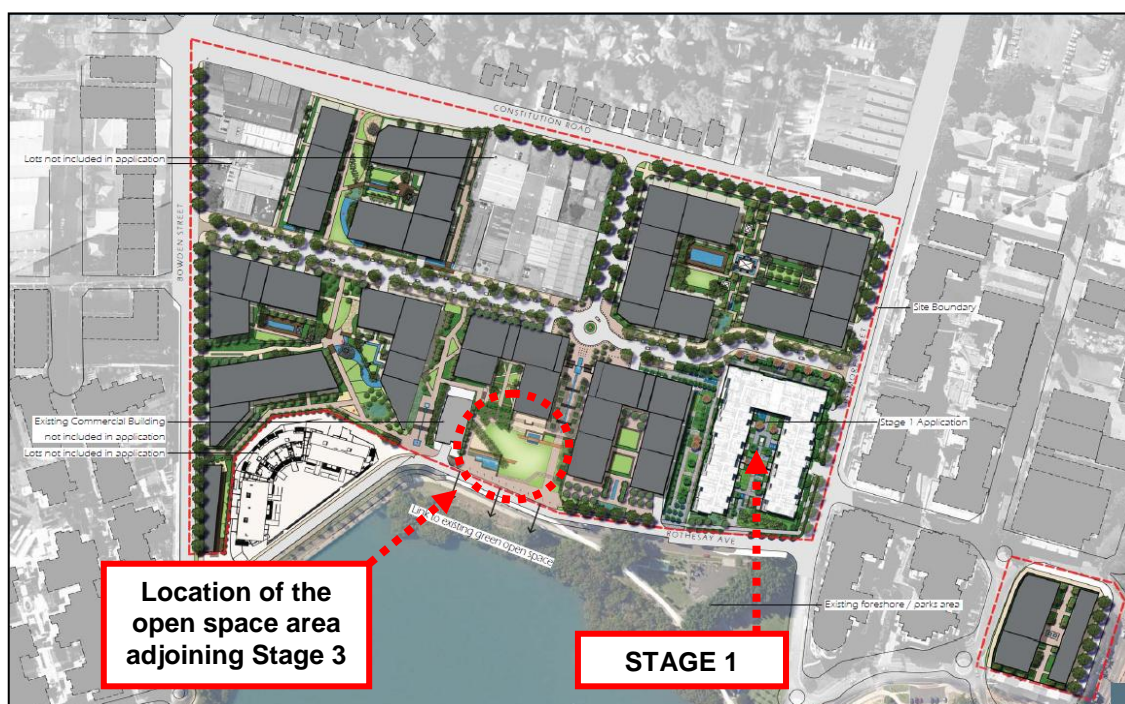


Figure 4: Landscape Masterplan of the Shepherds Bay redevelopment site prepared by Place Planning dated June 2013 which identifies the building forms and provision of open space in response to Condition B1 of the Concept Approval (MP09_0216).

Condition B2A *Open Space* of the Project Approval requires that: -

“Open Space

B2A Prior to the issue of the Occupation Certificate for Stage 1, a contiguous open space is to be provided with a minimum area of 3,000m² within the site of the concept plan, to accommodate both active and passive recreational needs of the new community. The open space shall include deep soil area and receive a minimum of 2 hours of sunlight to a minimum of 50% of the area on 21 June.

The land is to be dedicated, at no cost, to Council. Arrangements for the dedication shall be finalised before the issue of the Occupation Certificate for Stage 1. If Council does not accept the dedication, the land shall remain publicly accessible but in private ownership

by the relevant body corporate and maintained in accordance with the Landscape and Public Domain Plan (condition B3)."

This proposal seeks to delete Condition B2A of the Project Approval given the location and delivery of the contiguous open space area is not directly related to Stage 1. It is noted that the revised timing of the contiguous open space area is committed to in the Concept Plan (MP09_0216 Mod 1) and the revised Draft Statement of Commitments which is currently under assessment by the DoPI. This modification allows for the open space area to be provided prior to the occupation of Stage 3 (formerly Stage 6) to ensure that the construction of the open space area relates to the construction of the buildings to which it physically adjoins. This also enables more suitable construction access to the foreshore area in conjunction with the construction of Stage 3.

Due to the significant slope of the site to the foreshore, construction access via Rothesay Avenue is a pertinent requirement to facilitate the construction of the building at Stage 3. Should the foreshore area contain the completed open space area as is currently the case in accordance with Condition B2A, construction access will be substantially limited.

This timing is in keeping with the Statement of Commitments approved with the Concept Approval, which provides for the New Central Foreshore Plaza to be delivered as part of Indicative Stage 3 (formerly Stage 6). Therefore, it is reasonable to delete Condition B2A from the Project Approval.

4.2 EXTENT OF THE STAGE 1 WORKS FOR LANDSCAPING AND PUBLIC DOMAIN WORKS

As explained in Section 4.1 above, the construction staging of the overall Shepherds Bay development site requires ongoing management of the excavation and construction processes. This application seeks to enable the construction and occupation of the Stage 1 residential flat building exclusive of the adjoining foreshore link. As demonstrated in **Figure 5** below, the Stage 1 works are proposed to comprise the residential flat building, the adjoining landscaping works, and the vehicular and pedestrian pathways required to access the site, including the road treatments to Hamilton Crescent, Belmore Street and Rothesay Avenue.



Figure 5: Extract of the Proposed Stage 1 Landscape Masterplan provided within the revised Landscape Concept Plans prepared by Place which identifies the Stage 1 construction boundaries. The landscaping and public domain works (identified in green) comprise the landscaping works, including the pedestrian access pathway to the west of the building associated with Stage 1. The remainder of the foreshore link (left) is to be provided following the Stage 1 works and in conjunction with the construction works for Stage 2 to the west.

The remainder of the foreshore link will be constructed in conjunction with the adjoining Stage 2 (formerly Stage 3) in order to facilitate construction access, to ensure public safety during the construction works, and to ensure that the quality of the foreshore link is of a high standard and is not at risk of being damaged during the standard demolition and construction processes involved in the construction of Stage 2.

The delivery of the foreshore link is committed to subject to the Modification Application of the Concept Plan (MP09_0216 Mod 1) which is currently under assessment by the DoPI. Refer to the Concept Plan Revised Draft Statement of Commitments submitted with the Modification Application of the Concept Plan for further details. This commitment is also reflected in the Revised Draft Statement of Commitments which accompanies this application (**Appendix 8**).

Given the reasoning above and for consistency, Condition E24 *Easement in Gross* is also proposed to be reworded to reflect this construction phasing and allow for the foreshore link to be completed in conjunction with the occupation of Stage 2. The proposed rewording is as follows: -

“Easement in Gross

*E24. Prior to any occupation certificate **for Stage 2**, an easement for public access in gross for the public to enter, pass, re-pass, use and enjoy the publicly accessible foreshore link to the west of the building is to be registered over the land in favour of Council. The terms of the easement are to be approved by Council.”*

4.3 MODIFICATIONS TO THE FLOORPLAN LAYOUT

Relationship with the Public Domain

The architectural plans approved by the DoPI in their correspondence dated 8 August 2013 discharged the design modifications detailed in Condition B2 of the Project Approval. Throughout the course of further design considerations by the proponent, it was identified that these approved plans resulted in a poor relationship with the street level due to the significant sloping topography of the site.

This can be demonstrated in the following elevations of the approved Stage 1 development which depicts the relationship between the finished levels of the site including appropriate road levels and the incorporation of the necessary stormwater and WSUD measures, infrastructure and the approved building.

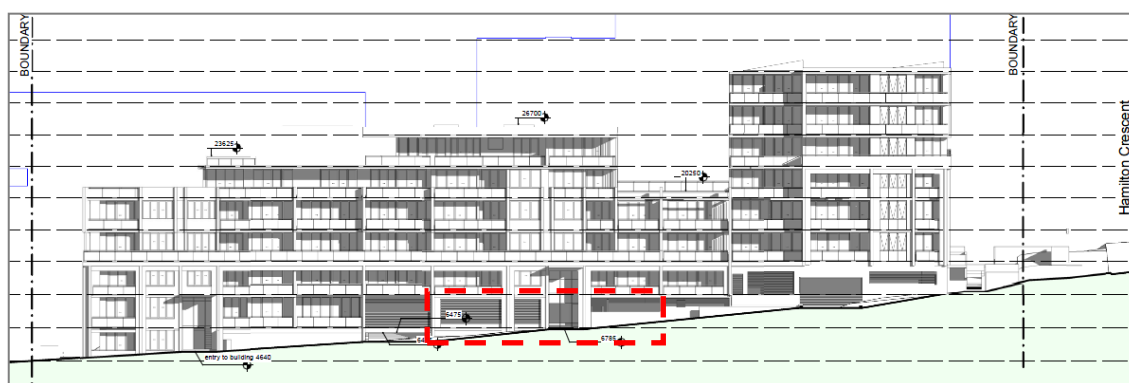


Figure 6: Extract of the Eastern Elevation Plan approved by DoPI to discharge Condition B2 of the Stage 1 Project Approval (MP09_0216). This Belmore Street elevation identifies (in red) the areas which provide blank wall facades at street level, despite the stepped design of the development in response to the site's sloping topography.

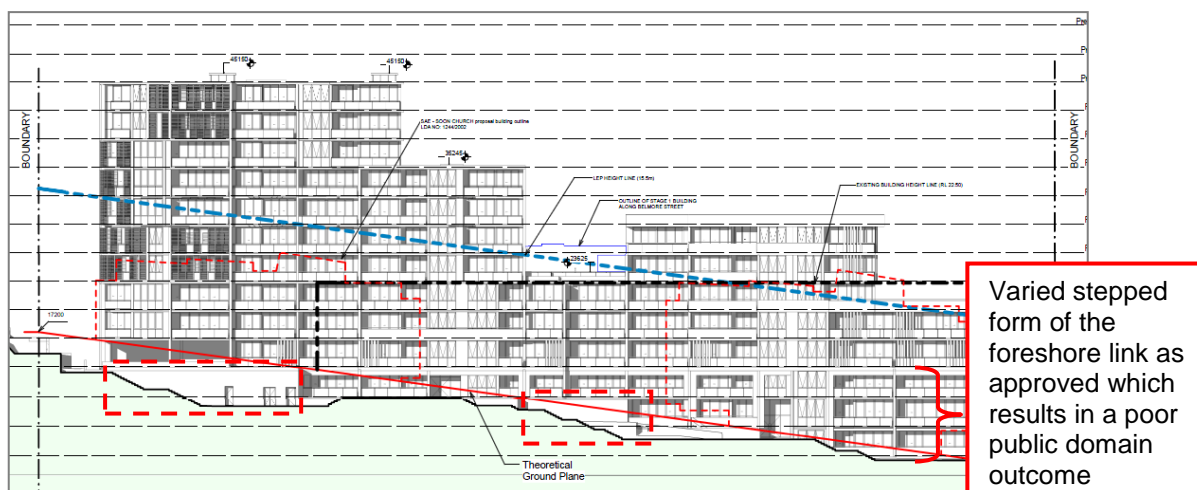


Figure 7: Extract of the Western Elevation Plan approved by DoPI to discharge Condition B2 of the Stage 1 Project Approval (MP09_0216). This western foreshore link is depicted as stepping down in a varied manner, and the adjoining building elevation results in areas with blank wall facades (as identified in red).

This issue affects the central portion of the eastern facade on the Upper Basement Level, and the central and rear portion of the western facade on the Upper Basement and Lower Ground

Floor Levels. The proposal also seeks to provide a more fluid slope for the foreshore link which adjoins the western facade of Stage 1. This is achieved through the introduction of concentrated 'scissor' stairway elements at the northern portion of the foreshore link and providing a more even grade for the remainder of the link. The revised through site link provides a better physical relationship to the existing sandstone platform, improves accessibility and now features pockets of level areas which simultaneously act as passive recreational spaces. The resulting improved relationship with the public domain is demonstrated in **Figures 8, 9 and 10** below.

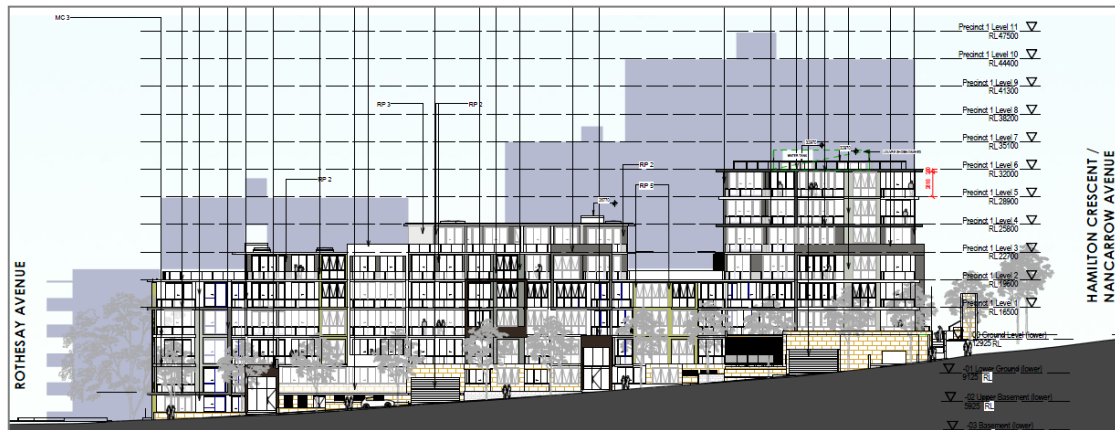


Figure 8: Extract of the Proposed Belmore Street Elevation Plan showing the improved relationship of the dwellings and their connection with the public domain at street level.

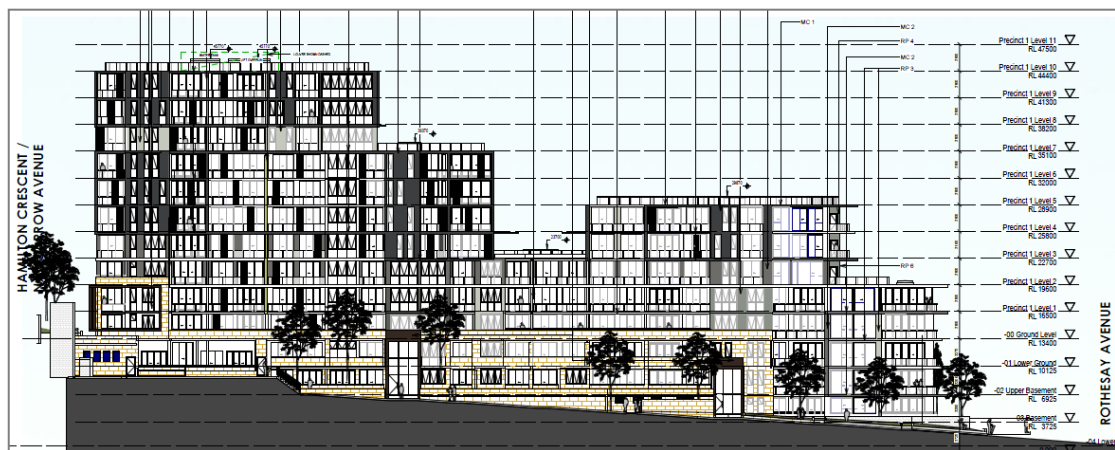


Figure 9: Extract of the Proposed Internal Foreshore (western) Elevation Plan showing the gentle slope of the internal foreshore link, the introduction of two stairways at the upper portion of the foreshore link, and the improved relationship of the public domain with the adjoining dwellings.



Figure 10: Extract of the Revised Section of the Foreshore Link which demonstrates the revised grading of the foreshore link featuring 'scissor' stairs at the northern portion (left) and gentle access throughout with the inclusion of pocket passive recreation spaces and with outlooks to the river. The foreshore link provides an improved relationship with the residential units beyond (Source: Place).

In response, and to facilitate the modification to this Project Application, the S75W Modification Application to the Concept Approval (MP09_0216 Mod 1) seeks to amend the Building Storeys Plan to allow for dwellings in these locations in the place of blank facades or services. The Building Storeys Plan is also updated to reflect the Stage 1 Project Approval and outcome of the Condition B2 Design Modifications.

The proponent recognises that the optimal development outcome for the redevelopment of Shepherds Bay is to provide accessible public domain areas and through site links which exhibit a high quality urban design outcome and landscaping elements, with a strong relationship to the adjoining residential dwellings at ground level. The modified design outcome seeks to avoid the provision of blank wall facades and services which front the public domain areas, and to provide dwellings at these points to improve the residential setting.

In relation to Belmore Street, the Architectural Drawings submitted in support of this application (**Appendix 1**) demonstrate the addition of three (3) x 1 bedroom units at street level (Units UB-11, UB-12 and UB-13). Also refer to **Figures 11 and 12** below.

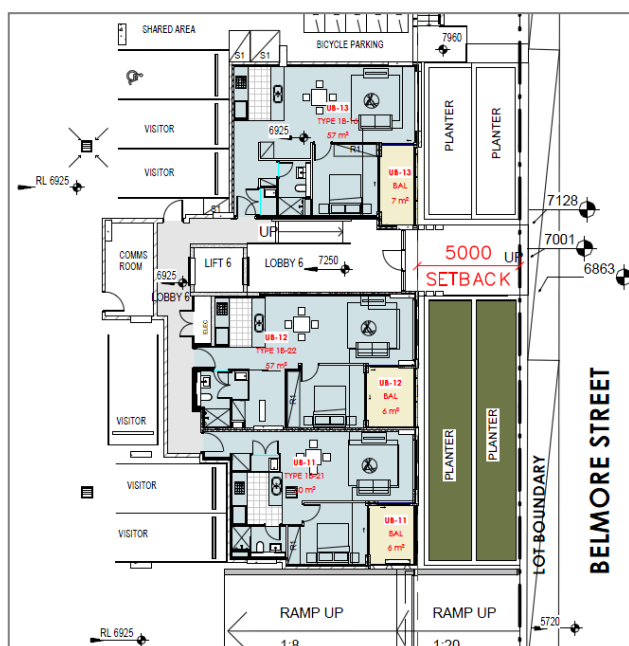


Figure 11: Extract of the Upper Basement Level Floor Plans identifying the location of three additional units fronting Belmore Street (Units UB-11, UB-12 and UB-13) (Source: R+M)

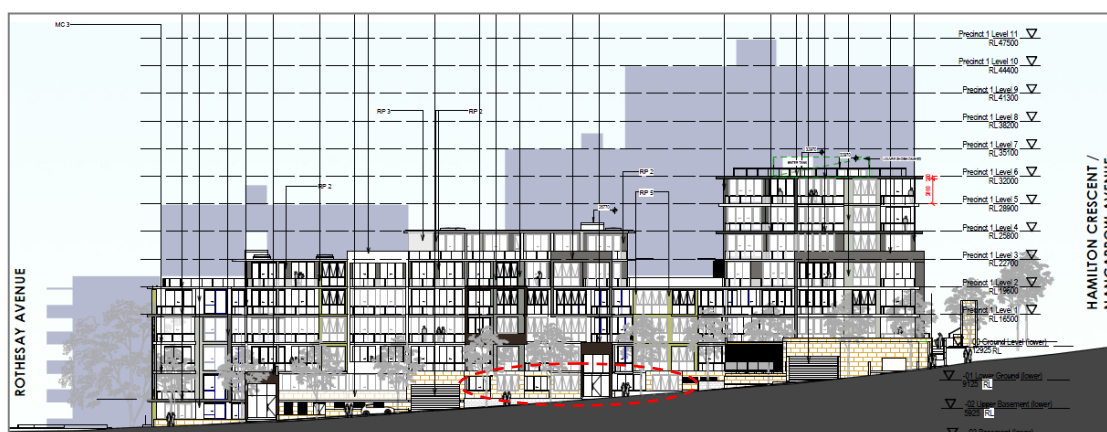


Figure 12: Extract of the Proposed Belmore Street Elevation identifying the location of the three additional units (Units UB-11, UB-12 and UB-13) which activate the public domain (Source: R+M)

The provision of residential units at this level also improves the relationship with the street level through providing street activation and improved casual surveillance to the benefit of the local community.

These units are afforded a suitable level of amenity, given they feature a high level of internal liveability, feature a balcony space directly off their bedroom and living areas which have a sense of connection to the landscaping within the adjoining street setback, and benefit from a sense of space given the substantial separation to the buildings on the opposite side of Belmore Street. These units have suitable protection and separation from Belmore Street to mitigate the potential impacts from vehicle movements on the street. Furthermore, these units have secure pedestrian access from Belmore Street and direct access to the parking areas behind. The layout and design quality of these units ensure that the future occupants benefit from a suitable level of amenity, and the location of units in this location activate the public domain and activate the residential precinct of Shepherds Bay.

Integral to this, the proposal also seeks to improve the grades of the path of travel of the pedestrian through site link to the west of the Stage 1 building. In response, this proposal seeks to provide additional 1 bedroom units at the Upper Basement Level (Units UB14, UB15, UB 16, UB17 and UB18) and at the Lower Ground Level (Units LG24 and LG25). The locations of these additional units are identified in **Figures 13 and 14** below. The location of these units on the facade is demonstrated in **Figure 15** below.

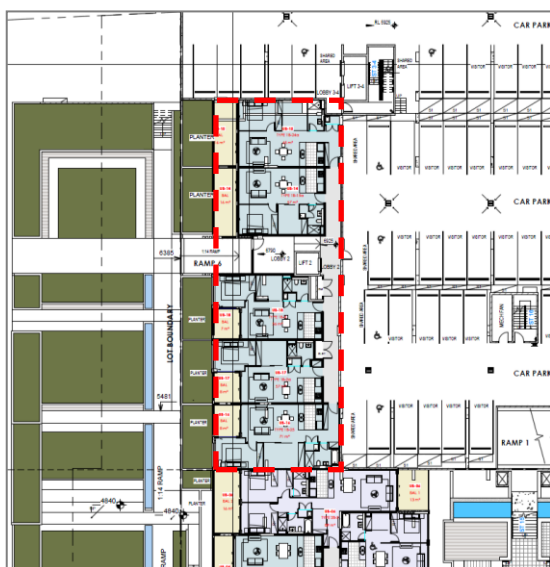


Figure 13: Extract of the Proposed Upper Basement Level Floor Plan identifying the location of five additional units fronting the internal foreshore link (Units UB14, UB15, UB 16, UB17 and UB18 outlined in red) (Source: R+M)

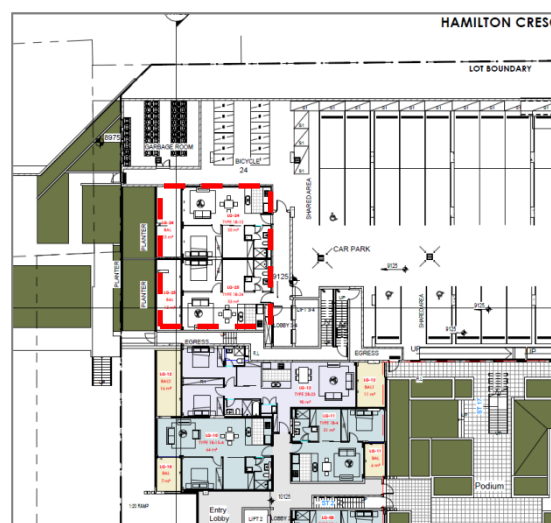


Figure 14: Extract of the Proposed Lower Ground Level Floor Plan identifying the location of two additional units fronting the internal foreshore link (Units LG24 and LG25 outlined in red) (Source: R+M)



Figure 15: Extract of the Proposed Western Facade Elevation identifying the location of the additional units fronting the internal through site link (additional units outlined in red) (Source: R+M)

These units are afforded a suitable level of amenity, given they feature a high level of internal liveability, feature a balcony space directly off their bedroom and living areas which have a sense of connection to the adjoining landscaped area. Furthermore, these units have secure

pedestrian access from the foreshore link and direct access to the parking areas behind. The layout and design quality of these units ensure that the future occupants benefit from a suitable level of amenity and privacy.

The provision of residential units at these levels improve the sense of human scale when viewed from the through site link, in particular given the through site link now features level areas which simultaneously act as passive recreational spaces. This approach improves the ability to activate this publically accessible space and provide improved casual surveillance to the benefit of the local community. Most importantly, the design provides a visually interesting treatment which relates to the public domain and avoids blank wall treatments.

The final improvement to the development in relation to the public domain related to the Ground Floor Level, at the north-western corner of the site. As a result of the design modifications imposed by the Project Application (MP09_0219), this area has been approved as a void space. The proposal seeks to provide two (2) residential units in this space, as demonstrated in **Figures 16 and 17** below.

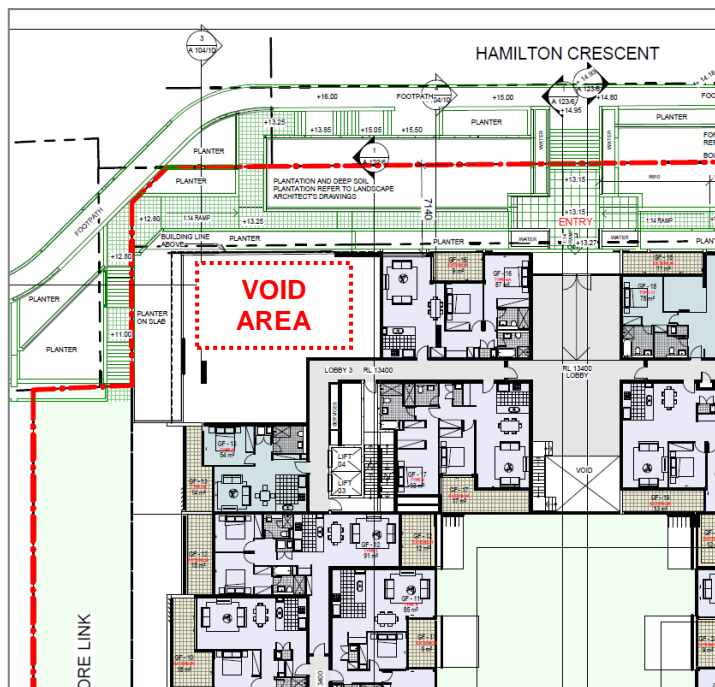


Figure 16: Extract of the Approved Ground Floor approved by DoPI to discharge Condition B2 of the Stage 1 Project Approval (MP09_0216).

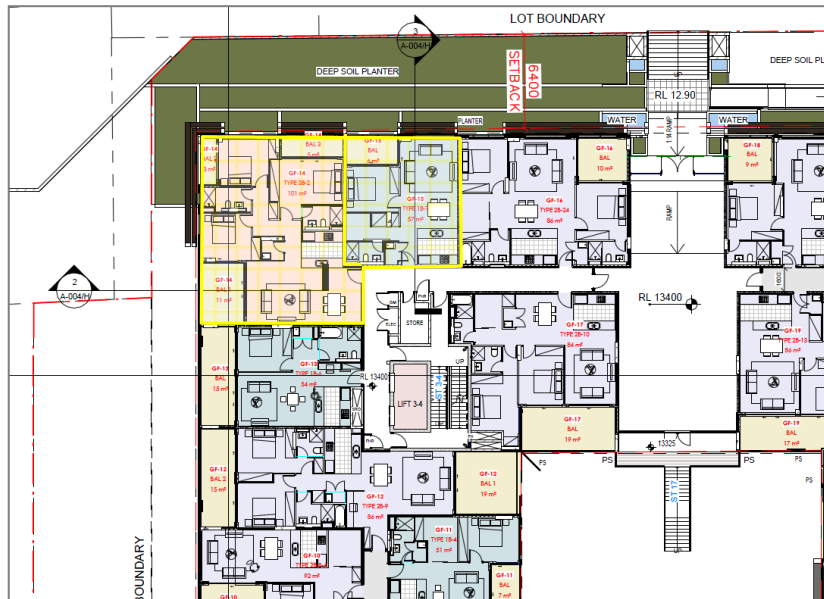


Figure 17: Extract of the Proposed Ground Floor demonstrating the provision of 2 residential units (GF-14 & GF-15 highlighted in yellow) in the former void area (Source: R+M).

The provision of these two (2) residential units in this location is suitable given they reinforce the corner element of the building and provide a residential setting for the entirety of the northern facade. As demonstrated in the floor plan layout in **Figure 17** above, the placement of the window and balcony openings of these units are orientated towards private spaces, as opposed to the road incline of Hamilton Road to the north-west. The 3D modelling in **Figure 18** below, demonstrates the ideal relationship of these additional units in the context of the public domain.

These units are afforded a high level of amenity given their separation to the public domain and screening measures and are considered to provide substantial improvements when considered in light of the overall development. Refer to **Figures 18 and 19** below which demonstrates these units also receive solar penetration to their balcony and living area spaces.

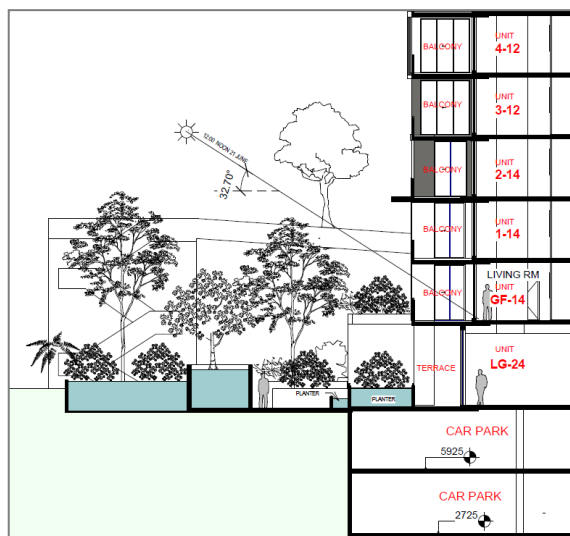


Figure 19: Detail section taken through the centre of the balcony of Unit GF-14 demonstrating this unit is elevated above the level of the adjoining foreshore link and is capable of solar penetration to its balcony and living area (Source: R+M).

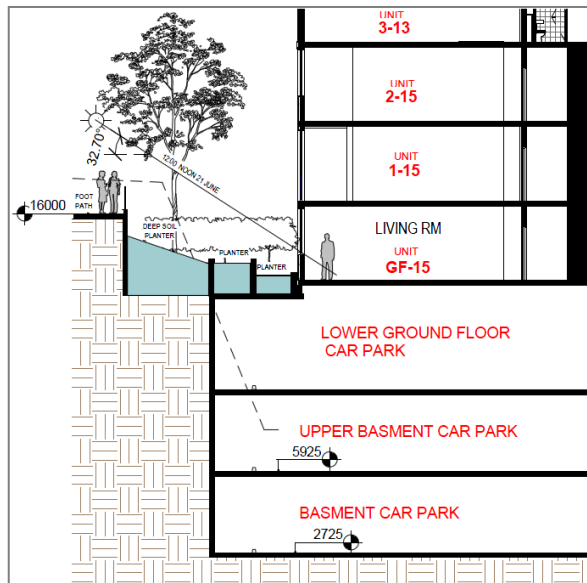


Figure 20: Detail section taken through the centre of Unit GF-15 demonstrating this unit has suitable separation and stepped landscape screening to the adjoining public domain to the north. Unit GF-15 is capable of solar penetration to its balcony and living area (Source: R+M).

As identified in the Analysis Report of Solar Access and Natural Ventilation prepared by Steve King Architect dated 29 October 2013, Unit GF-14 achieves over natural cross ventilation and over 2 hours solar access to its balcony in the morning and both its balcony and living area in the afternoon. Unit GF-15 achieves over 2 hours solar access to its balcony. Given this and the reasoning above, these units clearly benefit from a suitable level of amenity and are an appropriate design response.

Modification of the Basement Setbacks and Landscaping

The proposal seeks to modify the setback of the basement parking to the northern boundary from 7.14 metres to 4 metres. This enables an improved circulation and parking arrangement for the basement levels, and the provision of lockable storage areas adjoining the parking spaces.

The reduced setback to the northern boundary to accommodate the basement levels does **not** compromise the ability for viable landscaping in the setback to Hamilton Crescent. The current conditions of the northern boundary setback comprise rocky materials and a lack of soil. This proposal seeks to excavate the rocks in this location, provide basement parking beneath with the provision of soil to act as a deep soil area with a soil depth of 2 metres which fosters viable and long-term conditions to support landscaping within the street setback area including large canopy tree planting.

As demonstrated in **Figure 19** below, the proposal maintains the extent and design quality of the landscaping within the private spaces as well as the public domain as demonstrated in the Landscape Concept Plans (**Appendix 5**).

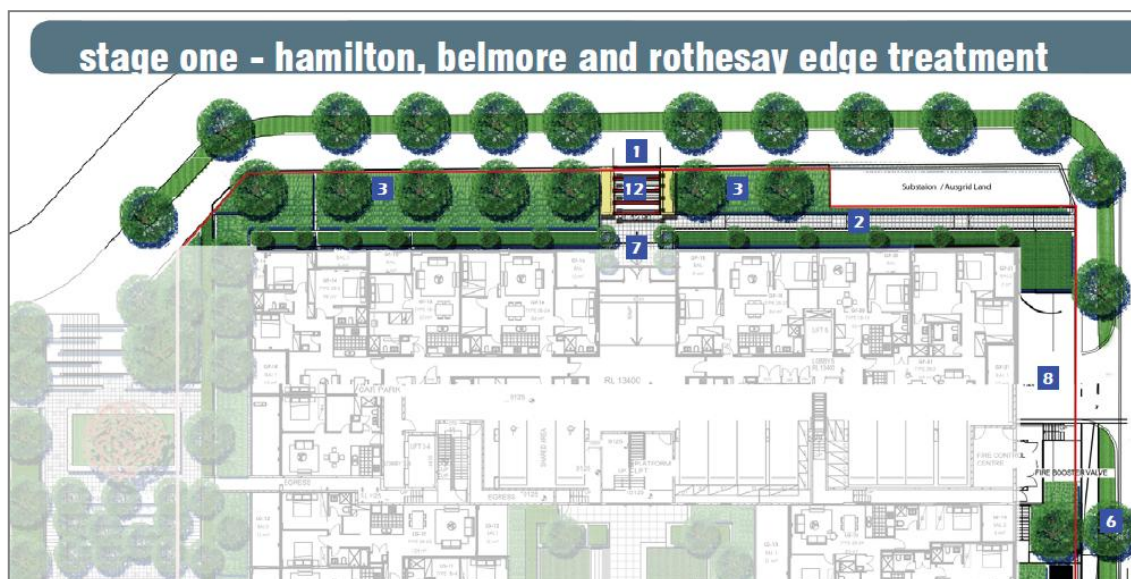


Figure 19: Extract of the Concept Landscape Plan demonstrating the landscape treatment to the northern street setback which provides sufficient deep soil planting to accommodate a mix of street trees, large canopy tree planting, buffer shrub planting and accessible paths of travel (Source: Place).

Building Height

The proposal maintains the approved building height, including the revisions required in accordance with Condition B2 Design Modifications. The proposal is in accordance with the updated Building Storey Plan submitted with the s75W Modification Application to the Concept Approval (MP09_0216 Mod 1).

Building Setbacks

The proposal maintains the approved building setbacks, including the setbacks within the development as required by Condition B2 Design Modifications. The revised scheme has provides architectural elements which are designed for the purpose of providing a visually interesting built form presentation, which includes the arrangement of subtle fin and fenestration detail. These items also assist in improving the amenity of the dwellings, in particular in terms of privacy. The basement setback is proposed to be revised, as discussed above.

4.4 DWELLING YIELD

The proposal seeks to modify the dwelling mix and dwelling layouts to provide a more efficient living arrangement within the approved building envelope. The revised dwelling yield meets the expectations of the market for smaller 1 and 2 bedroom apartments and results in increasing the overall number of dwellings.

The following table provides an analysis of the proposed mix of the residential apartments: -

Table 2 – Analysis of the Residential Apartment Mix

Unit Type	Approved in MP09_0219*		Proposed	
1 Bedroom	48	23%	84	34%
2 Bedroom	133	64%	126	51%
3 Bedroom	26	13%	36	15%
Total	207	100%	246	100%

Note: * = The details of the Approved Scheme are representative of the amended design which was approved by the Department of Planning and Infrastructure on 8 August 2013 which satisfied the design modifications pursuant to Condition B2 of the Project Approval MP09_0219.

The increased dwelling yield is also the result of providing additional units at the Upper Basement Level which improves the relationship of the development in relation to Belmore Street and the addition of units at the Upper Basement and Lower Ground Levels in relation to the adjoining through site link. Similarly, the void at the north-western corner of the Ground Floor Level is proposed to be replaced with residential units. These modifications are discussed in detail in **Section 4.2** above.

The site and surrounding locality is capable of accommodating the proposed yield of 246 dwellings in terms of services and the capacity for the road network and public transport services.

The proposal seeks to provide a residential development which is responsive to current market demands. As identified by marketing and real estate specialists CBRE in their correspondence dated 10 October 2013 and provided at **Appendix 6**, the Shepherds Bay precinct is experiencing a high level of market demand for units which comprise 1 bedroom, 1 bedroom + study and 2 bedroom apartments. CBRE have provided the following advice to create a development which is responsive to the local market: -

- *Market demand in this area is driven by a younger demographic; mainly young professionals, many of whom will be First Home Buyers and investors looking for one and two bedroom apartments;*
- *There is little demand for small studio apartments (i.e. sub 50m²) without parking as they prove very difficult to finance due to mortgage insurance restrictions;*
- *There will be minimal demand for three bedroom apartments as empty nesters generally seek smaller boutique buildings in less built up areas or have bespoke requirements, satisfied by individual negotiation involving amalgamation of strata units;*
- *The ideal net internal unit areas are 50m² to 55m² for 1 bedroom units and 70m² to 80m² for 2 bedroom units;*
- *The apartment sizes provided meet the price expectations of potential buyers; and*
- *The design of the apartments provide flexibility for apartment amalgamation should this be sought by potential purchasers.*

In light of the above, this proposal seeks to provide a development which is responsive to the current and changing needs of the market and to increase the flexibility of dwelling types. The internal unit areas of the proposed 1 and 2 bedroom units are either within the ranges specified above, or in fact provide more generous internal units areas. Overall, the unit sizes are varied and provide flexible living opportunities to suit the occupants of the development. The proposed

dwelling mix is generally consistent with the Concept Approval, the Draft Statement of Commitments of the Project Approval and the objectives of the Council's relevant development controls. The development provides residential dwellings which are in close proximity to public transport and services and provide a mix of dwelling types. The mix of housing types allows a choice consistent with more single/lone person households and single professional people within the area as well as oversized apartments if this is the desire of future owners, and is considered an appropriate response to market trends.

4.5 DWELLING AMENITY

The design of the apartments and flexible floor plan layouts optimise the level of amenity for the future residents while also respecting the privacy and amenity of neighbouring properties. Given the orientation of the site and the approved orientation and shape of the building which takes advantage of the views to Shepherds Bay to the south, the development is vulnerable to receiving solar penetration.

It is noted that the layout of the proposed apartments differs to the approved scheme. This proposal seeks to provide a revised floor plan layout which is responsive to market demand in providing affordable units with 1 or 2 bedrooms. The floor plan layout is also the result of careful consideration of the preferences of the market to provide feature such as square shaped balconies with a minimum depth of 2 metres which are a direct extension of the internal living spaces.

This design enables both the internal and external spaces to be used more flexibly, which is a desirable attribute in the eyes of future occupants.

In addition, several units now feature oversized terrace areas where these units have the opportunity to extend their terrace area over the units below. This is considered to be a further improvement to the development which improves the quality and activation of these spaces, and these individual units.

The Environmental Assessment for this Project Application was supported by an independent analysis of the solar access and natural ventilation achieved by the proposed development (*Analysis Report of Solar Access and Natural Ventilation* prepared by Steve King Consultant Architect dated 15 November 2010). During the assessment process of the Concept Application and Stage 1 Project Application, a revised PPR scheme was submitted to the DoPI. The final Project Approval then included Design Modifications which reduced the number of storeys and modified the building form. As a result, the approved building form substantially differs from the findings and recommendations of the independent solar access and natural ventilation analysis.

In order to provide an accurate representation of the amenity of this proposal (prior to this S75W Modification Application) with respect to solar access and ventilation, a new independent analysis has been prepared which addresses the SEPP 65 guidelines with respect to solar access and natural ventilation, which is provided at **Appendix 3**. This analysis compares the approved Stage 1 scheme and the revised scheme the subject of this application.

This report identifies that the development of the site is constrained by the preservation and reinforcement of the existing street grid and view corridors to the harbour, and the loss of

apartments which received a high level of solar access and natural ventilation as a result of Condition B2 Design Modifications. The independent analysis report identifies that in its approved form, the development achieves the minimum solar access (2 hours between 9am and 3pm on June 21) to only 67 apartments (32.4%).

In comparison, the proposed scheme achieves the minimum solar access requirements to 87 apartments (35.4%) which is a considerable improvement.

The Analysis Report provides the following conclusion with respect to solar access: -

“The s.75W changes proposed result in a greater number of complying apartments for solar access than are provided in the Approved DA.

The present s.75W Application seeks to reinstate the same number of dwellings (246) for which the original DA application was made, while preserving the building envelope approved. Comparison of the Propose s75W Scheme to the Approved DA Scheme shows that the present proposal improves on that scheme by increasing the number of dwellings fully complying with the RFDC Rules of Thumb from 67 out of 207 (32.4%) to a projected 87 dwellings out of 246 (35.4%).

In my considered opinion, given the nature of the siting constraints the proportion of complying apartments achieved here is a very reasonable standard, and should not be an impediment to approval of the s75W application.”

With respect to natural ventilation, 99 apartments (47.8%) in the approved Project Plan satisfied the requirement for natural ventilation. The subject proposal improves this figure, by providing 119 apartments (48.4%) which achieve cross ventilation.

The Analysis Report provides the following conclusion with respect to natural ventilation: -

“Because of their wind exposure and design a further number of single sided apartments in each scheme may be safely classified as having satisfactory ventilation patterns comparable to cross ventilation. However, I note that with the removal of several upper storey floor plates, the relative proportion of such apartments was dramatically reduced in the Approved DA Scheme, from that projected for the Project Application Scheme.

A relatively conservative characterisation allows approximately 60-61% of apartments in both the approved and proposed versions of the Stage 1 project to be described as complying with the performance objectives for natural ventilation. In my considered opinion, on that basis the development may be considered fully compliant for natural ventilation under the Residential Flat Design Code.”

Therefore, the proposed development improves the performance of the development with respect to solar access and natural ventilation. The individual units benefit from a suitable residential setting which affords a high level of acoustic and visual privacy with respect to the units within the building and neighbouring development sites. These units are located within a foreshore setting, with the majority of units enjoying expansive water views, and all residents and their guests benefitting from the introduction of a foreshore link and open space passive

recreational areas. Overall, these units offer a high degree of liveability which is a desirable outcome for apartment living.

Refer to the complete independent analysis with respect to solar access and natural ventilation, which is provided at **Appendix 3**.

Given the detailed testing of the natural ventilation of the development has been provided and the justification provided above, it is requested that condition B26 *Wind Tunnel Testing* is deleted. Detailed testing with regard to natural ventilation has been satisfied, and the design improves the proportion of apartments that achieve natural cross ventilation when compared to the approved scheme.

4.6 BASEMENT LAYOUT, PARKING AND SERVICES

Basement Layout and Parking

The proposal generally maintains the traffic and parking arrangement as approved. All parking is provided on the basement levels with vehicular access provided off Belmore Street. The proposal seeks to provide an additional sub level of car parking at the northern portion of the site for the purpose of achieving the parking rates as per Condition B2(b) of the Concept Plan and providing an efficient basement arrangement which prioritises the location of waste service areas, infrastructure, emergency egress and visitor parking spaces in appropriate locations (refer to the Lower Basement Floor Plan). The additional Lower Basement level is provided within the approved basement layout above and is provided in response to current market demand for small units with access to at least one car parking space.

Condition B2 of the Project Approval (MP09_0219) stipulates that the parking provision for the development is as follows: -

“(b) parking for the development at the following rates:

(i) 0.6 – 1 space per 1 bedroom apartment;

(ii) 0.9 – 1.2 space per 2 bedroom apartment;

(iii) 1.4 – 1.6 spaces per 3 bedroom apartment;

(iv) 1 visitor space per 5 apartments;

(v) 1 secure bicycle locker per 10 car parking spaces (in addition to outdoor bicycle racks).”

The parking allocation of the proposal is provided in the following table.

Table 3: Calculation of the Proposed Parking

USE	RATE	NUMBER	SPACES REQUIRED	SPACES PROVIDED
1 Bed	0.6 – 1	84	50.4 – 84	293
2 Bed	0.9 – 1.2	126	113.4 – 151.2	
3 Bed	1.4 - 1.6	36	50.4 – 57.6	
Visitor	1 per 5	-	49.2	49
Total			263.4 – 342	342
Bicycle Locker	1 per 10 parking spaces	-	26 - 34	34

The arrangement of the car parking spaces are detailed in the following table.

Table 4: Details of the Proposed Parking Arrangement

PARKING LEVEL	PROPOSED PARKING	
	Total Parking Spaces	Breakdown of Parking
Lower Ground Level	37 spaces	22 individual spaces 10 tandem spaces 5 disabled spaces
Upper Basement Level	103 spaces	26 individual spaces 19 tandem spaces 49 visitor spaces 9 disabled spaces
Basement Level	162 spaces	135 individual spaces 16 tandem spaces 11 disabled spaces 2 motor bike spaces
Lower Basement Level	40 spaces	40 individual spaces
Total	342 spaces	

The subject site significantly benefits from existing public transport in the immediate vicinity including train, ferry and bus services.

The proposed development seeks to maintain the level of parking and traffic generation as approved in the Project Approval (MP09_0219). The parking provision and basement layout allow for appropriate areas for the provision of car parking, motorcycles and bicycle spaces to service the transport needs of the residential development.

The proposed parking arrangement satisfies the relevant Australian Standards and the requirements imposed in the Project Approval including conditions of consent in relation to Driveway Grades (B28) Road Works (B29) and Car Parking (B31). The proposal satisfies these conditions of consent.

Services

The proposal maintains the general location of the approved services within the basement levels. Air conditioning and other services are provided exterior to the building envelope or on the rooftop where necessary, and are integrated into the overall design of the development. This approach ensures that the presentation of the development also provides an appropriate roofscape outcome. The provision of services and ESD is addressed in the BASIX Certificate (**Appendix 4**).

4.7 ESD Measures

The proposed modification seeks to maintain the level of environmental commitments as specified in the Draft Statement of Commitments approved with the Project Approval MP09_0219. The proposal provides for the utilisation of materials and services which provide an energy efficient design.

BASIX applies to the “*apartment building*” component of this proposal. An amended BASIX Certificate and BASIX Compliance Report prepared by Integreco in support of this Modification Application is attached at **Appendix 5**. This BASIX Assessment takes into consideration the amended scheme as required by Condition B4 *BASIX* of the Project Approval.

The EA submitted for the Concept Proposal was supported by an ESD Guidelines and Report prepared by Ecospecifier Consulting dated October 2010. This report was prepared with a view to propose a high level of sustainability outcomes with a strong emphasis on the passive efficiency of the buildings, thereby achieving “*industry best practice*.”

This report addressed the relevant Environmentally Sustainable Development (ESD) categories providing “base targets” for the purpose of guiding the design of the Concept site to reflect industry best practice in Australia. In addition, where “base targets” were not directly relevant “stretch targets” were detailed to provide additional initiatives which will help the development exceed industry best practice and approach the realms of “*world’s best practice*.”

As disclosed in the ESD Guidelines and Report, the inclusion of stretch targets was an additional conceptual guideline which was “*envisioned to challenge the whole design team to create a highly sustainable built environment*.” Therefore, the stretch targets were intended as optimal design guidelines, in support of the actual benchmarks provided by BASIX requirements.

Condition B37 of the Project Approval states the following: -

“ESD

B37. The Construction Certificate Plan are to include ESD measures in accordance with the base targets within ESD Guidelines Report prepared by Ecospecifier Consulting dated October 2010. Where no base target is provided within this report, the development must comply with the stretch target.”

Given this, Condition B37 of the Project Approval above “over commits” the overall development to comply with stretch targets which are likely unattainable (and unnecessary) and risk diminishing other more pertinent aspects of the development.

Further explanation of the intent of the *ESD Guidelines and Report* is provided in the correspondence prepared by Integreco Consulting (formerly Ecospecifier Consulting) dated 31 October 2013 (**Appendix 7**). This correspondence clarifies that the ESD Targets are set out to achieve at least four of the ESD categories, as opposed to all of them. As recommended by Integreco Consulting, high achievement in four categories would represent an excellent sustainability outcome and one equivalent to “industry best practice.” Furthermore, in place of the EnviroDevelopment targets for water and energy, Integreco Consulting recommend that the water and energy categories are instead assessed using the BASIX results, which are the relevant and current tools for assessment in NSW. Refer to the correspondence prepared by Integreco Consulting provided at **Appendix 7** for further details.

Given the reasoning above, it is requested that the wording in Condition B37 is modified as follows: -

“ESD

*B37. The Construction Certificate Plan are to include ESD measures in accordance with the base targets within ESD Guidelines Report prepared by Ecospecifier Consulting dated October 2010 (**where relevant and feasible**). Where no base target is provided within this report, the development must comply with the stretch target (**where relevant and feasible**).*

In accordance with the EnviroDevelopment philosophy, 4 of the categories will be targeted to show "industry best practice." Where the categories of water and energy are applied, BASIX will be used to test "industry best practice" for water and energy, which will be treated as at least 10% better than the BASIX pass marks (e.g. 22/20 for energy rather than 20/20).

The proposed rewording ensures that the ESD measures are capable of being applied to the development in a reasonable and balanced manner to achieve the optimal design and ESD outcome.

4.8 Safety and Security

The proposal has been designed with the key consideration of providing the future residents of the development, the neighbouring residents and the general public with a sense of safety and security. This is achieved in the public domain area in particular by ensuring that all spaces are benefitted by casual surveillance and are appropriately lit. Appropriate security measures are implemented for the occupants of the site, with secure access to the residential and basement levels and the internal common open space areas. There is a clear delineation between the public and private spaces and a high level of visual and physical permeability through the publically accessible through site links.

As discussed in **Section 4.2** above, where the sloping topography of the site results in portions of the development having blank facades or services in excess of approximately 3 metres, that it is considered appropriate to introduce residential dwellings at street level to create a more direct relationship with the public domain. The addition of units at these locations at Belmore Street and the western facade adjoining the through site link activate the periphery of the building and provide casual surveillance and an improved sense of safety.

The visual permeability across the site contributes to satisfying the principles of the Crime Prevention Through Urban Design (CPTED) and creating a safe and welcoming atmosphere.

4.9 Disabled Access

This application is accompanied by an updated Access Review prepared by Morris-Goding Accessibility Consulting which is provided at **Appendix 2**. This report provides a detailed review of the proposal with regard to ingress and egress, paths of travel, circulation areas, passenger lifts, car parking, common facilities and adaptable units and provides advice and strategies to ensure the development complies with the relevant statutory guidelines and maximises reasonable provisions of access for people with disabilities. For completeness, Condition B23 *Disabled Access* is proposed to be updated to reference the current Access Review as follows:

“Disabled Access

B23 The recommendations of the Access Review undertaken by Morris-Goding Accessibility Consulting (Reference Final v3) dated October 2013 are to be incorporated into the relevant Construction Certificate drawings.

Prior to the issue of the first Construction Certificate for a building in Stage 1, a report is to be provided from a suitably qualified access consultant to verify that the Construction Certificate drawings fully comply with Australian Standard AS1428 and Development Control Plan 2010 – Access for People with Disabilities. The report is to be provided to the Certifying Authority and Council.”

4.10 Balcony Areas

The proposal provides private open space areas for all apartments which contribute to the sense of internal and external connection for the occupants. Where appropriate, the balcony areas for the units which are capable of utilising the rooftop of the level below, are afforded an oversized terrace area. This approach has been applied to Level 2 whereby the building setback satisfies the requirements of Condition B2 *Design Modifications*. The proposed terrace area is provided with recessive balustrades which are not visible from the public domain. The benefit of these terrace areas on the rooftop of the level below, is to allow for these areas to be appropriately treated and accessible for the purpose of maintenance. Refer to the SEPP 65 Design Verification Statement provided at **Appendix 1** for further details.

4.11 External Materials and Presentation

The external presentation of the Stage 1 residential flat building is proposed to be enhanced through revised external materials and finishes (refer to the Schedule at **Appendix 1**). The external presentation of the lower levels is proposed to be a mix of glazing and sandstone elements with timber frames to provide a suitable presentation which connects with the public domain level at a human scale. The upper levels comprise a mix of different materials such as alucabond and trespas, as well as the introduction of zinc cladding in order to provide a contrast of materials. These materials are long-lasting and provide a sharp and visually interesting finish.

A mix of natural and neutral colour tones are used throughout, which are highlighted the arrangement of subtle fin and fenestration details, some in an 'avocado cream' contrast colour. The external materials and presentation provide a high quality residential built form which enhance the desired future character of the Shepherds Bay locality and blend in with the existing neighbouring buildings and remainder of the Concept Plan site.

4.12 Acoustic Impacts

The proposed modifications maintain the recommendations of the *Traffic and Rail Noise Assessment and Construction Vibration and Noise Impact Assessment* prepared by Acoustic Logic and dated August 2012 which was approved in the Project Approval (MP09-0219). The potential noise impacts considered in this report are maintained, as are the recommendations. This proposal seeks to maintain the recommendations of this report.

4.13 Rewording of Condition B27

In order to allow for flexibility in the responsibility of the Accredited Certifier to provide their approval in relation to Condition B27 *Service Infrastructure/Utilities*, this application seeks to allow for the location of the services infrastructure/utilities to be permitted subject to approval by the Accredited Certifier. This allowance is considered reasonable given it is within the expertise of the Accredited Certifier to provide advice on this matter, and removes the sole reliance on Council to provide this advice, and avoid time delays.

Therefore, Condition B27 is proposed to be modified as follows: -

"Service Infrastructure/Utilities

*B27. All new service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Where this is not possible **or not approved by the relevant agency subject to approval by the accredited certifier** and ~~subject to Council approval~~ such infrastructure shall be located on the subject site and appropriately screened from view. Details of all service infrastructure/utilities are to be approved prior to the issue of the relevant Construction Certificate."*

5 PROPOSED MODIFICATIONS TO CONDITIONS OF CONSENT

To give effect to the amendments identified in Section 3 above, the following modifications to the consent are proposed. Words proposed to be deleted are shown as ~~strike-through~~ and works to be inserted are shown in **red**.

SCHEDULE 2

PART A – ADMINISTRATIVE CONDITIONS

Development Description

A1. Development approval is granted only to carrying out the development described in detail below:

- Construction of two attached residential flat buildings between 3 and **12** ~~40~~ storeys in height;
- basement car parking over **four** ~~three~~ levels;
- landscaped communal open space between the two buildings;
- a new landscaped publicly accessible foreshore link from Hamilton Crescent to Rothesay Avenue;
- stormwater and infrastructure/utility works.

Development in Accordance with Plans and Documentation

A2. The development shall be undertaken generally in accordance with:

- the Environmental Assessment dated 7 January 2011 prepared by Robertson + Marks Architects and PLACE Design Group, except where amended by the Preferred Project Report dated July 2012 **and the Section 75W Modification Application dated November 2013**, including all associated documents and reports;
- the **Revised** Draft Statement of Commitments prepared by **Holdmark** ~~Robertson + Marks Architects~~ **dated November 2013**; and
- the following drawings:

Architectural Drawings prepared for the Preferred Project Report by Robertson + Marks (Job No. 10068-2)			
Drawing No.	Revision	Name of Plan	Date
A000/D	D	Lower Basement Floor Plan	07.11.2013
A001/K	K	Basement Plan	07.11.2013
A101/7	7		31.07.2012
A002/I	I	Upper Basement Plan	07.11.2013
A102/6	6		31.07.2012
A003/I	I	Lower Ground Floor Plan	07.11.2013
A103/7	7		31.07.2012
A004/H	H	Ground Floor Plan	07.11.2013
A104/5	5		31.07.2012
A005/H	H	Level 1 Floor Plan	07.11.2013
A105/5	5		31.07.2012

A006/H A106/5	H 5	Level 2 Floor Plan	07.11.2013 31.07.2012
A007/H A107/5	H 5	Level 3 Floor Plan	07.11.2013 31.07.2012
A008/H A108/4	H 4	Level 4 Floor Plan	07.11.2013 31.07.2012
A009/H A109/2	H 2	Level 5 Floor Plan	07.11.2013 31.07.2012
A010/H A110/2	H 2	Level 6 Floor Plan	07.11.2013 31.07.2012
A011/H A111/2	H 2	Level 7 Floor Plan	07.11.2013 31.07.2012
A012/H A112/2	E 2	Level 8 Floor Plan	07.11.2013 31.07.2012
A013/H A113/2	E 2	Level 9 Floor Plan	07.11.2013 31.07.2012
A014/F A114/2	E 2	Level 10 Plan	07.11.2013 31.07.2012
A115/2	2	Level 11 Floor Plan	31.07.2012
A017/E A117/2	E 2	Roof Plan	07.11.2013 31.07.2012
A151/13 A118/4	13 4	Rothsay Avenue Elevation	08.11.2013 31.07.2012
A152/13 A119/4	13 4	Belmore Street Elevation	07.11.2013 31.07.2012
A153/13 A120/4	13 4	Hamilton Crescent Elevation	07.11.2013 31.07.2012
A154/14 A121/8	13 5	New Foreshore Link Elevation	07.11.2013 31.07.2012
A172/8	8	Sections	07.11.2013
A112/4	4	Sections	31.07.2012
A123/4	4	Sections	31.07.2012
A140/4 A132/2	4 2	Adaptable Apartments	07.11.2013 07.05.2012
A141/4 A133/2	4 2	Adaptable Apartments	07.11.2013 07.05.2012

except for any modifications:

- that are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- otherwise provided by the conditions of this approval.

PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Deletion of Condition B2a:

Open Space

~~B2A Prior to the issue of the Occupation Certificate for Stage 1, a contiguous open space is to be provided with a minimum area of 3,000m² within the site of the concept plan, to accommodate both active and passive recreational needs of the new community. The open space shall include deep soil area and receive a minimum of 2 hours of sunlight to a minimum of 50% of the area on 21 June.~~

~~The land is to be dedicated, at no cost, to Council. Arrangements for the dedication shall be finalised before the issue of the Occupation Certificate for Stage 1. If Council does not accept the dedication, the land shall remain publicly accessible but in private ownership by the relevant body corporate and maintained in accordance with the Landscape and Public Domain Plan (condition B3).~~

PART B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

Disabled Access

B23 The recommendations of the Access Review undertaken by Morris-Goding Accessibility Consulting (Reference Final **v3 v7**) dated **October 2013** ~~August 2012~~ are to be incorporated into the relevant Construction Certificate drawings. ~~including:~~

- ~~(a) an accessible path of travel to lobby 2 from Rothesay Avenue;~~
- ~~(b) provision of a clear width of 850mm to garbage holding room doors;~~
- ~~(c) maximum ramp gradient of 1:14 for all access to garbage areas; and~~
- ~~(d) provision of a hardstand letterbox area adjacent to lift lobby areas with 1550mm circulation area.~~

Prior to the issue of the first Construction Certificate for a building in Stage 1, a report is to be provided from a suitably qualified access consultant to verify that the Construction Certificate drawings fully comply with Australian Standard AS1428 and Development Control Plan 2010 – Access for People with Disabilities. The report is to be provided to the Certifying Authority and Council.

Deletion of Condition B26:

Wind Tunnel Testing

~~B26 Prior to the relevant Construction Certificate being issued, the Certifying Authority is to be provided with written documentation of wind tunnel testing undertaken which confirms that a minimum of 60% of apartments achieve natural cross ventilation, or equivalent natural ventilation conditions, in accordance with the Residential Flat Design Code.~~

Service Infrastructure/Utilities

B27. All new service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Where this is not possible **or not approved by the relevant agency subject to approval by the accredited certifier** and

~~subject to Council approval~~ such infrastructure shall be located on the subject site and appropriately screened from view. Details of all service infrastructure/utilities are to be approved prior to the issue of the relevant Construction Certificate.

ESD

B37. The Construction Certificate Plan are to include ESD measures in accordance with the base targets within ESD Guidelines Report prepared by Ecospecifier Consulting dated October 2010 **(where relevant and feasible)**. Where no base target is provided within this report, the development must comply with the stretch target **(where relevant and feasible)**.

In accordance with the EnviroDevelopment philosophy, 4 of the categories will be targeted to show "industry best practice." Where the categories of water and energy are applied, BASIX will be used to test "industry best practice" for water and energy, which will be treated as at least 10% better than the BASIX pass marks (e.g. 22/20 for energy rather than 20/20).

PART E – PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

Easement in Gross

E24. Prior to any occupation certificate **for Stage 2**, an easement for public access in gross for the public to enter, pass, re-pass, use and enjoy the publicly accessible foreshore link to the west of the building is to be registered over the land in favour of Council. The terms of the easement are to be approved by Council.

6 CONSULTATION

Ryde Council

The items addressed in this Modification Application were presented to the Ryde Council's senior officers on 27 September 2013.

Council's officers generally supported the direction of the proposed plans, and made some preliminary comments to improve the contribution of this development to the future built form and urban design of the Shepherds Bay precinct.

The architects have considered and addressed the aspects of the Stage 1 development identified for further improvement and the final design addresses each as follows: -

- Ensuring that the units which are proposed to be introduced at the public domain level to mitigate the impact of basement levels and blank facades above ground demonstrate a suitable level of amenity. Council recognised that this issue is likely to be a stage by stage concern;
- The staging of the buildings and associated infrastructure works are clearly identified;
- Council was to provide detailed engineering comments with regard to the road infrastructure and road reserve upgrades with regard to Stage 1;
- Council recognised the benefit of delivering the public open space in associated with the stage to which it physically adjoins, being Stage 3 (formerly Stage 6); and
- Further discussions were undertaken with regard to the proposal for Holdmark Property Group to enter in to a VPA with Ryde Council. These discussions are to continue separate to this application.

Council's comments have been integrated into this proposal.

7 STATUTORY CONTEXT

7.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with the former provisions of clause 13 of Schedule 1 of the *State Environmental Planning Policy (Major Development) 2005* the proposal is a Major Project under Part 3A of the Environmental Planning and Assessment Act, 1979 (*the Act*), given it is a development for the purpose of a residential, commercial or retail project. The proposal has a capital investment value over \$100 million.

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A to the EP&A Act, continues to apply to transitional Part 3A projects. Director-General's environmental assessment requirements (DGRs) were issued in respect of this project prior to 8 April 2011 (issued on 20 May 2010), the project is considered to be a transitional Part 3A project.

To this end, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and approval may be granted under Section 75W of the Act.

7.2 Modification of the Minister's Approval

This S75W modification application is lodged with the Director General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *"revoking or varying a condition of the approval or imposing an additional condition of the approval"*.

In accordance with Section 75W the proponent seeks approval for the modification of Major Project MP09_0216. The modification is considered to comfortably be considered as an application to which 75W applies for the following reasons: -

- The principal use of the buildings, being primarily residential with some retail commercial, retail or community uses, remains the same.
- The modification is the result of detailed consideration of the demolition and construction process to be undertaken to deliver the development including the public domain area.
- The Concept Approval remains generally in accordance with the approved building envelopes.
- The Concept Approval maintains the provision of public domain benefits which directly benefit the greater community.
- The proposal does not introduce any new adverse amenity impact upon the surrounding area.
- It is noted that, to the best of our knowledge, there are no parameters against which the degree of modification need be assessed.

It is considered that the proposed modification includes changes to the terms and conditions of the existing approval and that it can comfortably be considered as modification under 75W of

the Environmental Planning and Assessment Act 1979. Approval to modify the application is required.

7.3 Environmental Assessment Requirements

We consider that sufficient information has been provided with this application to enable assessment to be undertaken. The application remains consistent with the key assessment requirements addressed in the original DGR's for MP09_0219.

7.4 State Environmental Planning Policies

The Project Approval (MP09_0219) and this application have been prepared with due regard for relevant State Environmental Planning Policies (SEPPs) including SEPP (Major Projects) 2005, SEPP 55 – Remediation of Land, SEPP 65 Design Quality of Residential Flat Development, SEPP Infrastructure and SEPP (BASIX) 2004. It is considered that this application continues to satisfy the objectives and requirements of the relevant SEPPs.

7.5 Ryde Local Environmental Plan 2010

The proposal continues to satisfy the objectives of the Ryde Local Environmental Plan (LEP) 2010 and the objectives of the B4 Mixed Use zoning.

7.6 Ryde Development Control Plan 2010

On 6 March 2013, the PAC approved a Concept Approval and Project Application for the subject site. Council's DCP is not applicable to this application. However, both the Project Application (MP09_0219) and this application have been prepared with due regard for the relevant sections of Ryde DCP and is considered that the application is consistent with the DCP provisions and in particular satisfies the objectives of the applicable provisions.

7.7 Ryde Draft Local Environmental Plan 2011

At the time of preparing this report, the Draft Ryde LEP 2011 is yet to be gazetted by the DOPI under Section 65. Accordingly, there is no statutory document to consider. The proposal has been considered with respect to the Draft Ryde LEP 2011 and is considered to generally be in accordance with the objectives and requirements of this EPI.

The Draft Ryde LEP 2011 and Draft Ryde Development Control Plan 2011 – Part 4.2 Shepherd's Bay, Meadowbank (draft RDCP 2011) provide an updated framework and strategic intent for the area. The Draft RLEP and Draft DCP encourage the future redevelopment of the Shepherd's Bay area to accommodate a higher density transit-orientated mixed use neighbourhood. The Project Approval and this application are consistent with this direction.

8 SUMMARY AND CONCLUSION

The proposed modification to the residential development approved in Stage 1 of the Project Application MP09_0219 at **Shepherds Bay** includes a number of clear improvements upon the existing approved scheme.

Included in the improvements are: -

- Revision of the grading of the foreshore link to provide a more gentle and accessible path of travel and the introduction of passive recreational spaces;
- The opportunity to improve the built form relationship of the apartment building to the public domain level including improved landscaping and providing residential units at the public domain level;
- The provision of basement parking levels which are responsive to the sloping topography of the site where the development provides a positive relationship with the public domain;
- Visual and physical connections for the public domain areas which link Belmore Street, Nancarrow Avenue and Rothesay Avenue via through site links and the foreshore path to the public open space which is centrally located with respect to the overall Concept Plan site;
- Redesigned private open space terrace / balcony areas for the residential units which provide an optimal level of usability and connection to the internal living spaces;
- Residential units with a desirable floor plan layout and mix which suits current market demand;
- Residential units which benefit from obtaining water views and achieve improved amenity and a balance between solar access, natural ventilation, privacy and thermal comfort needs;
- Improved timing of the construction processes of the building, access pathways and the adjoining foreshore link to ensure the final built and natural form are of an optimal standard;
- Superior overall ESD performance and architectural form including an aesthetically pleasing external presentation; and
- Allows for development on adjoining sites consistent with the desired future character of Shepherds Bay.

The proposal does not have an effect on the environmental impacts of the mixed use neighbourhood as approved. The proposal maintains the commitments to improving the public domain, road upgrades and stormwater improvements for the benefit of the future occupants of the site and greater public. This redevelopment maintains its commitment to being a main driver in the redevelopment of the Shepherds Bay locality from an industrial employment area to a high quality residential precinct with supporting commercial, retail and community floor space.

Consultation has been undertaken with Council's senior officers who provided favourable feedback for the proposed amendments.

The modified proposal has been assessed against the relevant planning provisions under Section 75W and the issues raised in the Director General's Requirements have been readdressed where necessary.

The proposed modification seek to improve the approved built form of the Project Approval and to ensure that the delivery of the project can be provided in an efficient and logical manner, in particular the timing of the construction of the Open Space and associated infrastructure works. This report has addressed the potential impacts that may arise from the modifications and it is concluded that no adverse environmental impact will result.

The proposed modifications are generally consistent with the terms of approval, do not change the site's suitability for the development and have been adequately justified in this report in response to the site constraints and practicalities of the construction of the development.

The proposal is consistent with all local regional and state planning objectives. The amended design responds to the key issues identified by the various stakeholders including City of Ryde Council, the relevant agencies, the community and the Department of Planning and Infrastructure. In light of the above benefits of this project and in the absence of the any adverse environmental impacts, it is considered that the Project Approval contemplates a form of development that will achieve the objects of the EP&A Act. In particular, the proposal represents "*orderly and economic use and development of land*" and provides the opportunity for additional dwelling and employment generating uses. As such, approval is sought for the modified Project Approval.