

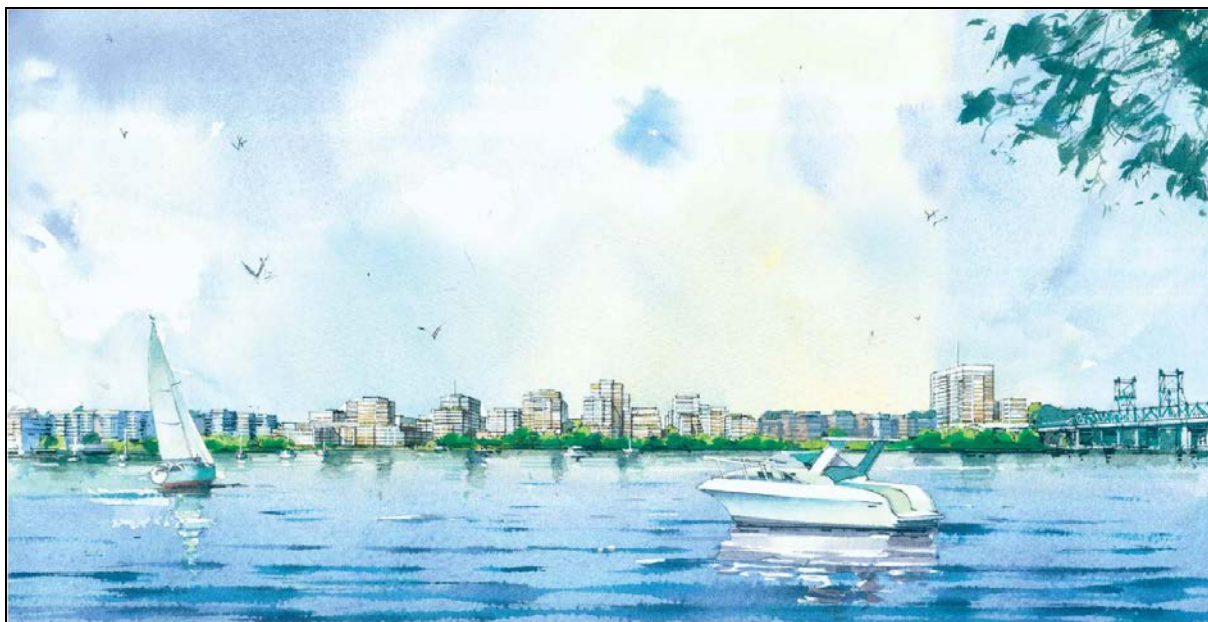


Planning &
Environment

MODIFICATION REQUEST:

**Concept plan and Stage 1 Project Application
at Shepherds Bay Foreshore, Meadowbank
and Ryde**

MP09_0216 MOD1 and MP09_0219 MOD1



Secretary's Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

August 2014

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EXECUTIVE SUMMARY

Robertson and Marks Pty Ltd (the proponent) seeks approval to modify the approved concept plan (MP09_0216) and Stage 1 project application (MP09_0219) relating to the development of the Shepherds Bay foreshore, pursuant to S75W of the EP&A Act.

The site is located approximately 14 kilometres north west of the CBD and is located within the Ryde LGA. The site experiences a number of constraints, the most significant being its uneven and steep topography.

On 6 March 2013, the Planning Assessment Commission approved the concept plan and Stage 1 project application for the redevelopment of the Shepherds Bay site. The concept approval comprises a mixed use residential development consisting of 12 building envelopes and car parking, infrastructure works and open space. The project approval consists of a 3-10 storey residential development.

The modification seeks to amend the open space design, staging and construction timing/delivery, building heights, residential amenity standards, internal and external layouts and dwelling mix. Associated new, deleted, reworded conditions and commitments are also proposed.

The department publicly exhibited the application from 16 January 2014 until 3 March 2014 and received 134 public submissions (all in objection). City of Ryde Council objected to the proposal, its key concerns being density, residential amenity standards, height, road delivery and foreshore link design.

The proponent submitted a Response to Submissions (RtS) to address the issues raised during the notification period and provided additional information to clarify key issues. The proponent also confirmed that aspects of the original proposal are now no longer pursued.

The department's assessment considered the following key issues: density, foreshore link design, additional storeys at lower levels, residential amenity, height, basement design staging and car parking.

The proposal seeks to provide residential apartments at lower ground levels (across four of the 10 stages), which would facilitate minor changes to the indicative densities. However, the proposed changes to the approved schemes are considered acceptable within the site context, subject to recommended amendments. As the site is located within walking distance of local centres and public transport it is strategically well located to provide for increased densities. To ensure that there are no additional traffic impacts the department recommends that car parking provision across the concept plan is capped at 2,976 spaces.

The re-grading of the foreshore link between Stages 1 and 2 will result in significant improvements, particularly in terms of functional open space provision, which will benefit the development and wider community. The insertion of new apartments into areas that would otherwise present as blank walls and relaxation of the basement height restriction of one metre are acceptable design solutions. This would also ensure that the development will be tailored to address the specific site constraints.

The residential amenity standards of new apartments at lower levels are acceptable and given the site constraints there is reasonable justification for flexibility to be applied to the solar access requirements where other amenity based performance criteria can be met.

The department is satisfied that the extension of basement car parking envelopes is acceptable and would not adversely reduce deep soil areas. The provision of a six storey

building at the corner of Constitution Road and Belmore Street is appropriate and would result in an acceptable scale of development in this location.

The re-ordering of the construction staging schedule and timing of the delivery of the contiguous open space would improve the efficiency of the demolition and construction process. The delay of the delivery of the Nancarrow Avenue road extension to Stage 4 is acceptable subject to the provision of a temporary east/west pedestrian link.

The department also considered matters relating to the amendment of ESD targets, wind tunnel testing, access and service and infrastructure requirements and is satisfied that the impacts have been satisfactorily addressed within the proponent's application, RtS and the department's recommended conditions.

Whilst the department's assessment concludes that many of the requested amendments are acceptable, it also concludes that some matters could not be supported. These are summarised in **Table 1**.

The department therefore recommends that the proposed modification of the concept plan MP09_0216 and project application MP09_0219 be approved subject to additional terms and conditions of approval. The applications are referred to the Planning Assessment Commission for determination as City of Ryde Council has objected to the proposal and 134 public submissions were received objecting to the proposal.

Table 1: Key elements of the applications amended/not supported by the department

MODIFICATION SOUGHT	DEPARTMENT'S POSITION
Concept Plan	
Increase in dwelling density.	Supported subject to car parking spaces being capped at 2,796 spaces. FEAR 23 amended accordingly.
Provision of additional storeys at lower levels.	Additional storeys should be limited to a single storey and only at Stages 2, 3 and south east corner of Stage 4. FEAR 3A updated accordingly.
Relaxation of RFDC amenity requirements.	Compliance with RFDC should be required, except for solar access where performance criteria can be met. FEAR 21 updated accordingly.
Deferral of delivery of Nancarrow Avenue road extension and road upgrade works from Stage 2 to Stage 4.	Deferral of Nancarrow road extension to Stage 4 is supported subject to provision of a temporary pedestrian link and updated road design. Other road upgrade works to be delivered at Stage 2. FEAR 24 and condition B29 updated accordingly
Deferral of intersection works from Stage 4 to Stage 5	Intersection works should be tied to the delivery of the 800 th dwelling. FEAR 25 updated accordingly
Relaxation of height restrictions (design excellence) of Stage A.	This is no longer proposed by the proponent. Department supports this revision.
Amendment of the timing and delivery of the community floorspace.	This is no longer proposed by the proponent. Department supports this revision.
Project Application	
Deferral of delivery of foreshore link from Stage 1 to Stage 2.	Foreshore link should be delivered at Stage 1. New condition B2A is recommended.
Foreshore link northern staircase contains five switch-backs.	The staircase design has been amended to provide two switch-backs and includes seating/resting areas. The department supports this revision.
12 apartments inserted at lower levels.	One of the 12 apartments inserted at lower levels provides poor amenity and should be deleted. New condition B2B is recommended.
Provision of service infrastructure/utilities outside building envelopes without Council approval.	Council's approval for future service infrastructure/utilities should be required if located outside building envelope. Condition B27 is updated accordingly.

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1. BACKGROUND

The purpose of this report is to assess a request to modify the approved concept plan (MP09_0216) and Stage 1 project approval (MP09_0219) under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for the redevelopment at Shepherds Bay / Meadowbank for mixed use residential and commercial purposes. The modifications seek to amend the indicative staging, timing of open space, storey height, internal layout, dwelling mix and yield. Modifications are also proposed to various conditions including design excellence, built form, residential amenity and ESD measures.

1.1 The site and surroundings

The site is located on the Shepherds Bay foreshore in the suburbs of Meadowbank and Ryde, approximately 14 kilometres north-west of the Sydney CBD. This site is within the Ryde Local Government Area (LGA). The site comprises two separate parcels of land which currently accommodate industrial and warehouse buildings.

The main portion of the site (referred to as the 'main site') has frontages to Bowden Street, Belmore Street, Nancarrow Avenue, Rothesay Avenue, Constitution Road and Hamilton Crescent. The smaller part of the site (referred to as the 'Church Street site') has frontages to Church Street, Well Street, Waterview Street and The Loop Road. The total area of the combined sites is approximately 6.7 hectares. The project location is shown in **Figures 1 and 2**.



Figure 1: Local Context Plan (Source: assessment report MP09_0216/0219)

The approved Stage 1 development site is located within the south east portion of the main site at 39-41 Belmore Street. This site is 8,269m² and has frontages to Hamilton Crescent, Belmore and Rothesay Streets (refer to **Figure 2**).

The site is located near rail, ferry and bus services. Various parts of the main site are situated between 350 metres to 1 kilometre walking distance from the Meadowbank Railway Station and the Village Plaza Shopping Centre and 250 metres to 1 kilometre from the Meadowbank Ferry

Wharf. The Church Street site is also within 200 metres of bus services on Church Street, and approximately 1 kilometre from the railway station and ferry wharf.

The main site has an uneven topography with a significant fall of up to 18 metres from north to south towards the Shepherds Bay foreshore. There is also a fall of approximately 10 metres from the east to west along Constitution Road. The Church Street site is relatively level.

The site is located within the Shepherds Bay area (also known as the Meadowbank Employment Area), which has been identified by Council as an area for transition from traditional manufacturing and industrial uses to a higher density mixed use neighbourhood. The surrounding area features a mixed character of industrial/warehouse buildings, high density residential flat buildings and low density residential housing.

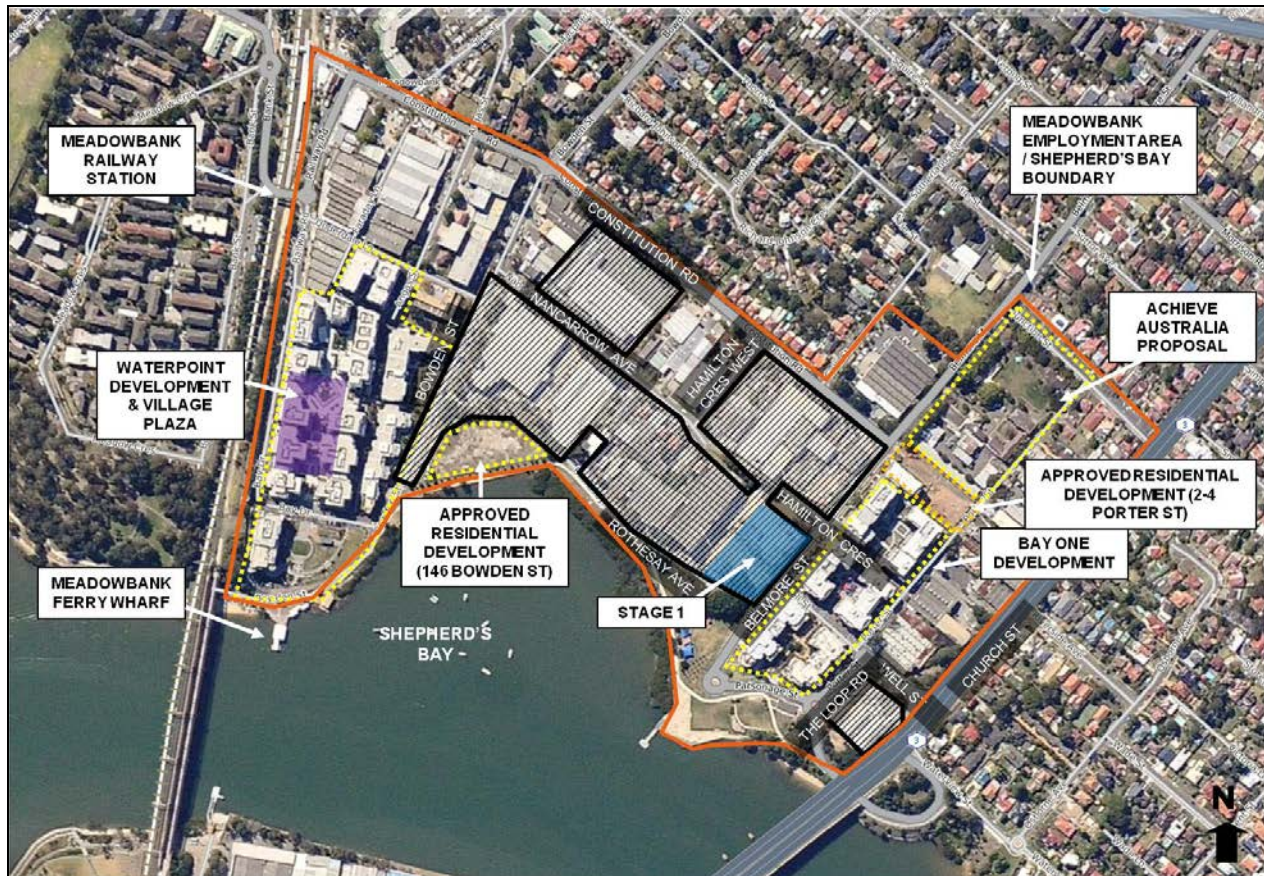


Figure 2: Aerial photograph of the site and surrounds (Source: assessment report MP09_0216/0219)

1.2 Previous Approvals

On 6 March 2013, the Planning Assessment Commission (PAC) approved the concept plan (MP09_0216) and Stage 1 project application (MP09_0219) subject to modifications and conditions.

The concept plan approval comprises the following:

- the redevelopment of the site for mixed use residential, retail and commercial purposes;
- 12 building envelopes incorporating basement car parking;
- infrastructure works to support the development;
- publically accessible open space and through site links; and
- pedestrian and cycle pathways.

The Stage 1 project application comprises the following:

- 3-10 storey residential development;
- basement car parking; and

- communal open space and a publically accessible foreshore link.

In approving the Stage 1 project application, the PAC imposed condition B2, which required the following:

- the reduction in the height of the building by the deletion of storeys;
- provision of minimum setbacks;
- deletion of below ground level apartments GF14 and GF15;
- provision of light wells/sky lights;
- basement level setbacks to be consistent with ground floor level setbacks and provide deep soil planting.
- car parking rates in accordance with the car parking rate range in Council's DCP; and
- provision of increased sill heights to north east facing apartments.

On 24 June 2013 the then Director-General approved amended plans and additional information to satisfy condition B1 of the concept plan, relating to building height and separation distances, public domain and open space, water sensitive urban design and pedestrian routes and cycleways.

On 8 August 2013 the Director, Industry, Key Sites and Social Projects approved amended plans to satisfy condition B2 of the project application, relating to building heights, setbacks and separation distances, car parking provision and the deletion of some apartments.

Figures 3 to 7 show the approved concept layout and photomontage of Stage 1.

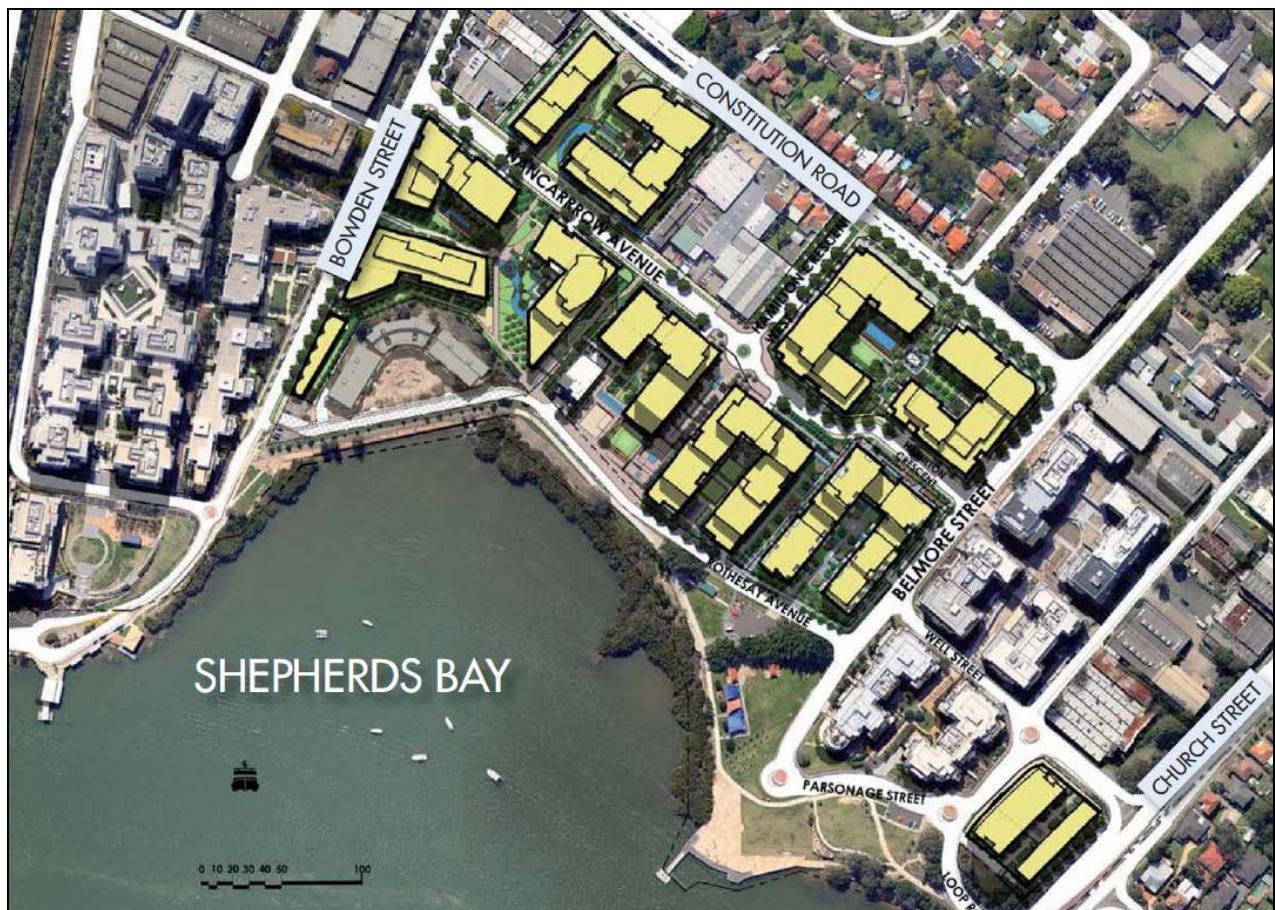
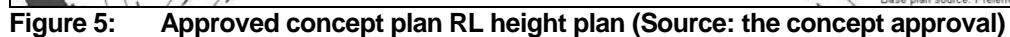
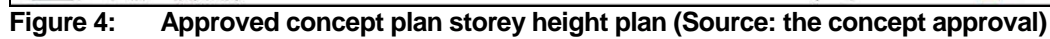


Figure 3: Approved concept plan layout (Source: Assessment report MP09_0216/0219)



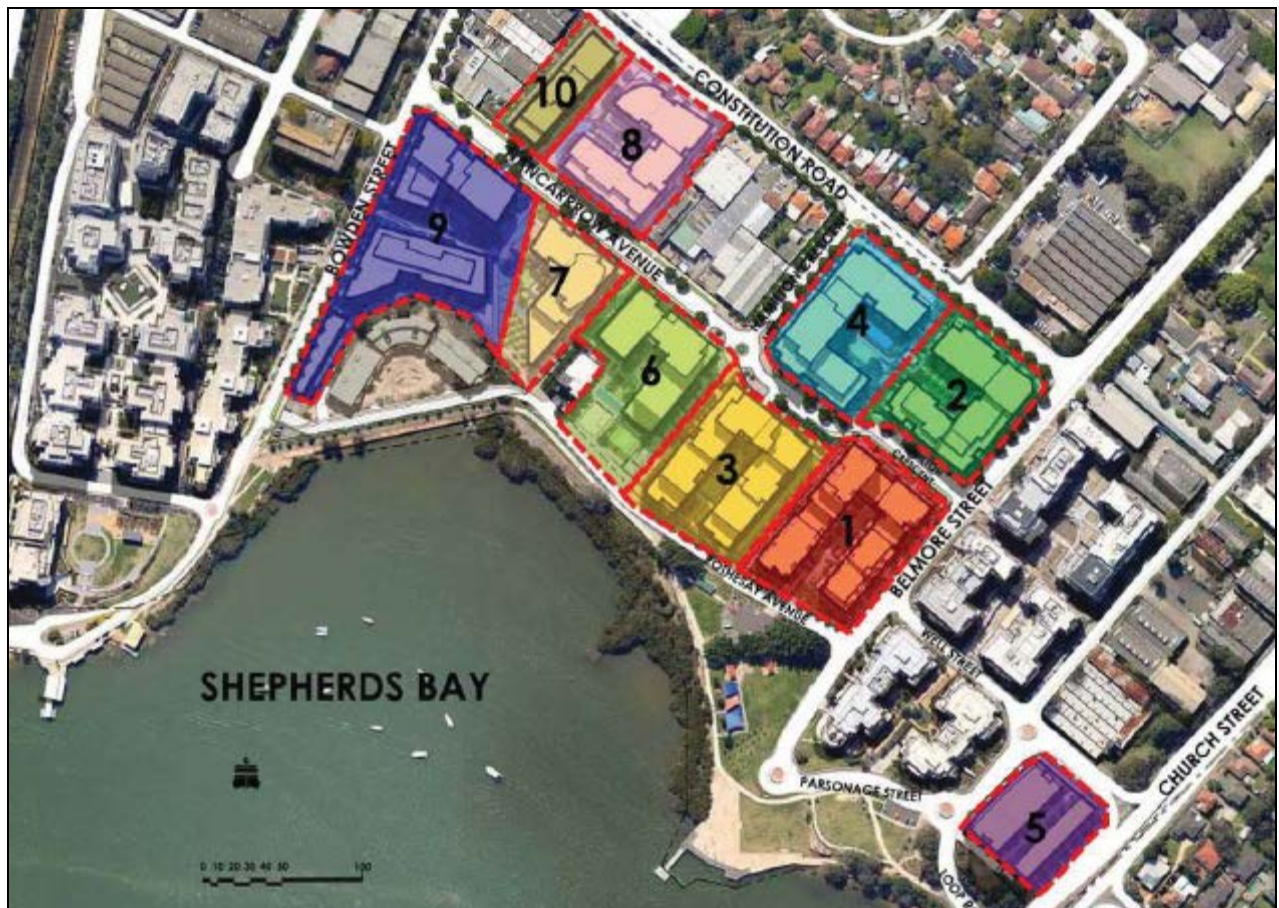


Figure 6: Approved indicative concept plan staging (Source: EA MP09_0216/0219)

2. PROPOSED MODIFICATION

On 1 November 2013, Robertson + Marks Pty Ltd (the proponent) lodged two concurrent modification request applications under section 75W of the EP&A Act to modify the concept plan and Stage 1 project application. The modifications primarily relate to revisions to open space design, staging and construction timing/delivery, building heights, residential amenity standards, internal and external layouts, dwelling mix and associated new, deleted, reworded conditions and commitments.

On 28 March 2014 the proponent submitted a Response to Submissions (RtS), which was subsequently updated on five occasions. The RtS included a response to Council's comments and also included clarification of residential amenity standards, indicative population forecast, a revision to the detail and timing of provision of the foreshore link, Statement of Commitments and other additional information to describe/clarify the modifications.

The modification requests, as amended, propose the following key changes:

Concept plan:

- amendment to Building Storeys Plan to allow for additional storeys at ground level in Stages 1 to 4 and to reflect the approved height of Stage 1;
- expansion of the basement building envelope of each Stage beneath landscaped/open space areas and also to expand/connect the basement building envelopes between Stage 2 and 3 and Stage 4 and 5;
- revision to the construction staging;
- revised timing of the delivery of the open space to be in conjunction with Stage 3 (rather than Stage 1);

- provision of an additional storey to provide a 6 storey element to the building on the corner of Belmore Street and Constitution Road;
- flexible application of the solar access requirement of the RFDC;
- amendment of ESD measures; and
- amendments to terms of approval, future environmental assessment requirements (FEARs) and Statement of Commitments.

Project application:

- modification of dwelling mix and increase in dwelling yield (from 207 to 246 dwellings);
- revision of the grading of the foreshore link and provision of a stairway at its northern end connecting it to Nancarrow Road;
- provision of apartments located at the lowest levels fronting Belmore Street, Hamilton Crescent and the foreshore link;
- provision of an additional underground car parking level, reduction of the basement setback to the north and an increase of 65 car parking spaces (from 277 to 342);
- revised timing of the delivery of the open space to be in conjunction with Stage 3 rather than Stage 1;
- rearrangement of internal building layouts, car parking layout and provision of balconies;
- revision of schedule of external finishes;
- amendment of ESD measures; and
- amendments to conditions and Statement of Commitments.

The department notes that the following aspects as proposed in the original applications are now no longer proposed:

- amendment of FEAR 18 to allow the community facility to be provided at an alternate location to Stage A or split between multiple locations; and
- amendment of FEAR 2 to allow for the increase in height and reduction of setbacks to the Stage A building.

Images of the proposed modification are shown at **Figures 7 to 9**. Further details of the proposed modifications are provided at **Appendix A**.



Figure 7: Proposed indicative concept plan staging (Source: proponent's application)

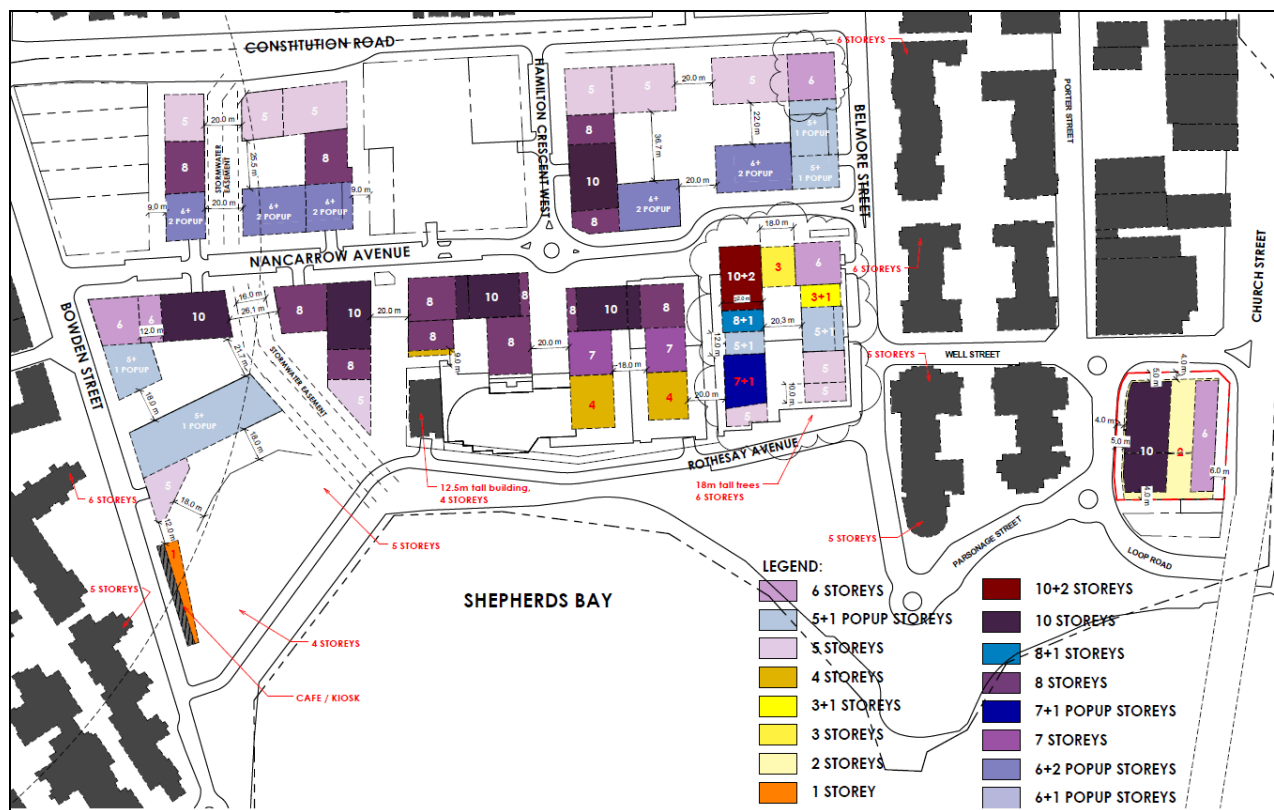


Figure 8: Proposed concept plan storey height plan (Source: proponent's application)



Figure 9: View north east from Shepherds Bay foreshore towards proposed Stage 1 building (Source: proponent's application)

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or her delegate) may approve or disapprove of the carrying out of the project under section 75W of the EP&A Act.

3.2 Modification of a Minister's Approval

The modification application has been lodged with the Secretary pursuant to section 75W of the EP&A 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 on the approval'*.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify specific conditions of the approval, which require further assessment and therefore approval is required.

3.3 Secretary's Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the Secretary may notify the proponent of Secretary's Environmental Assessment Requirements (SEARs) with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the proponent of SEARs pursuant to section 75W(3) with respect to the proposed modification, as suitable information was provided to the department to consider the application.

3.4 Delegated Authority

Under delegation of 14 September 2011, the Planning Assessment Commission (PAC) may determine applications made by persons other than a public authority under delegated authority where:

- the relevant local council has made an objection; and/or
- a political disclosure statement has been made; and/or
- there are more than 25 public submissions in the nature of objection.

Ryde Council has objected to the proposal and 134 public submissions have been received objecting to the proposal. No political donations have been disclosed in this modification request.

The PAC can therefore determine the modification requests under delegated authority.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act, the department is required to make a modification request publicly available. With regard to public notification the department:

- referred the application to City of Ryde Council for comment;
- notified surrounding owners and occupiers from 16 January 2014 until 3 March 2014; and
- made the application publically available on the department's website.

The department received a submission from the City of Ryde Council (Council) and a total 134 submissions from the general public. An additional submission was received from Council in response to the RtS.

A summary of the issues raised in the submissions is provided below.

4.2 City of Ryde Council Submission

Council objected to the application raising a broad range of issues. On 31 March 2014 the proponent submitted a Response to Submissions, which provided a response to Council's concerns. However, Council maintained its objection and has raised the following concerns:

Concept plan

Key concerns:

- proposed modifications recapture the dwelling yield that was reduced as a result of the original approval by the PAC and the subsequent increase in density and traffic generation adversely impact on residential and site amenity and local roads;
- the relaxation of RFDC requirements (FEAR 21) would result in poor quality apartments;
- the delay of road infrastructure works to Stage 4 (FEARs 24/25) results in the risk that insufficient space will be allowed for the provision of new roads and other interface problems; and
- the alteration of ground levels and increase in storey height on steeply sloping land is not supported due to the impact on built form and amenity.

Other concerns:

- the building on the corner of Belmore/Constitution Roads should not be increased in height from 5 to 6 storeys;
- the amendment of basement car parking envelopes (FEAR 4) results in insufficient deep soil areas and encroaches on street setback areas;
- the deletion of the one metre above ground basement height limitation (FEAR 4) would result in buildings that lack appropriate stepping in response to the topography of the site;
- the Open Space diagram shows a significant portion of open space located within non-publicly accessible setback areas;
- BASIX (FEAR 22) should be exceeded by more than 10%; and
- the revised Statement of Commitments are ambiguous.

Project application

Key concerns:

- lowering of the northern end of the foreshore link is not supported for the following reasons:
 - the switch-back stairway is significant in scale and does not provide sufficient platforms or seating for resting;
 - insufficient information has been provided to confirm whether the proposed stairway allows for sufficient space for the Nancarrow Avenue road extension; and
 - the provision of the foreshore link should be provided at Stage 1.
- there are alternative design solutions to address the existence of blank walls (rather than inserting new apartments), including landscaping, use of materials, provision of art and further stepping of buildings; and
- the additional apartments on Belmore Street, Hamilton Crescent and foreshore link will have a poor level amenity standards.

Other concerns:

- traffic impacts due to increase in car parking provision;
- the enlargement of the basement (reduction in setback from Hamilton Crescent) would reduce the deep soil area and would also impact on road design;
- the removal of Council approval for the location of utilities outside building envelopes (condition B27) could result in poor design outcomes;
- BASIX (condition B37) should be exceeded by more than 10%; and
- due to Council's concerns with the proposal the amendments to the Statement of Commitments are not supported.

The department has considered the issues raised in Council's submissions in its assessment of the proposed modification.

4.3 Public Submissions

A total of 134 submissions were received during the notification of the application and comprised 107 individual objections and 27 form letters of objection.

Of the 134 public submissions received, 80 related to the concept proposal (MP09_0216 MOD1) and 54 to the project application (MP09_0219 MOD1).

The department has considered the issues raised in the public submissions in its assessment of the modification request applications and has given specific consideration to the key issues raised in **Section 5** of this report. The concerns raised in the submissions are summarised in **Table 2**.

Table 2: Summary of issues raised in public submissions

Issue	Proportion of submissions (%)
Traffic and parking impacts	40.3%
Height of buildings	34.3%
Overpopulation / increased density	22.4%
PAC's original decision should be maintained/final	20.9%
Additional noise and air pollution	17.2%
Profitability gain at expense of community	15.7%
Inadequate / poor open space provision	14.2%
Condition B2A (open space) should not be deleted	14.2%
Rothsay Avenue should not join up with Bowden Street	14.2%
Additional social and physical infrastructure is required	12.7%
Church street site should not be increased in height	8.2%
Open space should be provided at Stage1	7.5%
Poor solar access for apartments	6.7%
Details of the community facilities should be provided with concept plan	6.0%

Other issues raised (less than 5%) in resident submissions included:

- basement levels should not rise above ground level;
- new 'built form' condition too general;
- loss of private views;
- modification is not 'substantially the same' as the approved development;
- inadequate setbacks to Rothsay Ave;
- corner of Belmore and Constitution Streets should be 5 storeys;
- buildings envelopes along Rothsay Ave should be limited to 4 storeys;
- loss of deep soil planting in courtyards and along streets;
- ESD targets should not be reduced;
- revised dwelling mix is poor / more family sized apartments needed; and
- Stage 1&2 should be provided at the same time.

4.4 Response to Submissions

The proponent provided a response to the issues raised in submissions (**Appendix A**) and includes further clarification of the proposed modifications as outlined in **Section 2**.

The department is satisfied that the issues raised in all submissions have been addressed through the Response to Submissions, this report and the recommended conditions.

5. ASSESSMENT

The department considers that the key assessment issues are:

- density / dwelling numbers;
- car parking provision;
- foreshore link / open space design;

- additional storeys at lower levels;
- residential amenity;
- basement design;
- staging; and
- height of corner element at Belmore Street / Constitution Road.

Each of these issues is discussed in the following sections of this report. **Section 5.9** of the report discusses other issues that were taken into consideration during the assessment of the application.

5.1 Density / dwelling numbers

5.1.1 Concept Plan

Density was a key issue in the department's assessment of the original concept plan application. The concept plan (indicatively) anticipated that up to 2,005 dwellings and a GFA of 203,500m² could be accommodated within the proposed building envelopes.

The department's assessment considered the appropriateness of the density taking into account:

- built form and amenity impacts;
- traffic impacts; and
- provision of open space, public domain works and community facilities.

The department found the impact to be acceptable and considered that the density should not be 'capped' given the urban renewal opportunities of this large site with high accessibility to transport, services and jobs.

The PAC agreed with the department that a higher density than what would otherwise be permissible under Council's planning controls is acceptable for the site. However, the PAC imposed a number of requirements on the concept approval (including Terms of Approval/Modifications/FEARs) which reduced the scale of the development to ensure greater compatibility with the existing local and emerging neighbourhood character. The PAC did not impose any Terms of Approval or Future Assessment Requirements (FEARs) on the concept approval limiting the number of dwellings or GFA across the site.

Council has raised concerns (based on the proposed increase in dwelling yield of the Stage 1 building and pre-DA discussions with the proponent regarding future stages) that dwelling numbers within remaining stages of the concept approval will be substantially greater than 2,005 dwellings. Council has objected to any increase in dwelling numbers on the basis of adverse amenity and traffic impacts. Council considers that:

- a dwelling cap, floorspace or density limit should be imposed on the development;
- the dwelling yield should be limited to between 1633 and 1946 dwellings (Council's estimate), as a result of the modifications imposed by the PAC; and
- the controls imposed on the concept approval (height, RFDC, basement and others) should be maintained as approved.

Concerns were also raised in public submissions regarding the density of the proposal and the subsequent traffic and amenity impacts.

Notwithstanding the reductions to the scale of the original development imposed by the PAC, the proponent estimates that due to improved building layout efficiencies and a change in dwelling mix (as a result of increased demand for smaller unit sizes) the building envelopes as proposed by the modification application could accommodate up to 2,009 dwellings. Furthermore, the proponent states:

- the indicative yield of the modified proposal (2,009 apartments) is not materially greater than the original indicative dwelling yield, and would result in no greater environmental impacts than the original concept plan application;

- the bulk, scale and density of the development would be contained within the building envelopes;
- the PAC did not specify dwelling number, mix and size in the concept approval;
- although proposed Stage 1 and Stages 2-5 (pre-DAs) indicate an increase of 186 apartments, the resulting apartments are smaller in size and the increase in dwelling numbers is balanced by an overall reduction in bedroom numbers and corresponding reduction in overall population; and
- the building envelopes effectively manage population density.

The department notes that in the absence of a dwelling or GFA cap the overall number of dwellings within the concept plan site may potentially exceed the indicative dwelling yield of 2,005 dwellings, provided future dwellings are achieved within the approved envelopes. Furthermore and critically, this could occur under the current approval without the need for the determination of this or an alternative section 75W application.

The department previously considered (subject to minor amendments) that the scale of the development was appropriate and that its impacts were acceptable in terms of amenity, traffic implications, open space, public domain and community facility provision. The department notes (by extrapolating the indicative increase of 186 dwellings within Stages 1-5) that there may be an increase in dwelling numbers in the order of 380 dwellings across the concept plan site. However, this would be subject to further detailed design and development applications for subsequent stages.

Notwithstanding that an increase may similarly occur under the current approval, the department considers such an increase is unlikely to result in significant impacts as:

- the terms of approval, modifications and FEARs of the concept approval as amended by this modification application will ensure that the resulting development is of an acceptable overall design, impact and future dwellings will achieve an appropriate standard of residential amenity;
- the development will be contained within the proposed modified building envelopes, which have been assessed as compatible with the desired future character of the area (refer to **Section 5.4**);
- future development applications would be subject to the Council's S94 Development Contributions Plan and future payments towards Council's infrastructure including open space and community facilities would correspond to the resulting density; and
- the resultant traffic generation was considered acceptable as part of the original application and the total number of car parking spaces is now capped, as discussed in **Section 5.2.1**.

The department has considered the proposed amendments relating to height, RFDC and the basement car parking. The department considers that these changes are acceptable, subject to amendment as discussed at **Sections 5.2, 5.4 and 5.5**.

5.1.2 Stage 1 Project Application

The Stage 1 project approval provides a total of 207 apartments. This dwelling yield was a result of the deletion of 39 apartments (as 246 were proposed) through reductions in height, increased setbacks/separation and below ground apartments within condition B2 of the project approval.

The proponent is seeking to increase the dwelling yield by 39 apartments to 246 apartments (refer to **Table 3**). The proponent has advised that this is in response to:

- a more efficient dwelling layout within the approved building envelope;
- adjustment of the dwelling mix and sizes in response to market demand for smaller apartment sizes; and
- improved dwelling choice for professional/single/lone person households.

Council has objected to this aspect proposal on the basis that it seeks to recapture dwelling yield lost due to the requirements of condition B2. Council also raised concern that the revised dwelling yield and mix results in reduced amenity for individual units and the publicly accessible open space. Concerns were raised in public submissions regarding the density of the proposal and the subsequent traffic and amenity impacts.

The department notes that the modifications required by condition B2 were in response to built form and amenity concerns raised in the department's assessment and by the PAC rather than the issue of density. The resultant reduction in the number of apartments was not specifically related to the density or dwelling yield of the Stage 1 development.

Table 3: Stage 1 dwelling yield and mix comparison

		APPROVED	S75W	Comparison to Approval
Number of Dwellings		207	246	+39
Dwelling Mix	1b'room:	48 (23%)	84 (34%)	+36 units
	2b'room:	133 (64%)	126 (51%)	-7 units
	3b'room:	26 (13%)	36 (15%)	+10 units
Dwelling Size (average)	1b'room:	58m ²	55m ²	-3m ²
	2b'room:	114m ²	86m ²	-28m ²
	3b'room:	127m ²	103m ²	-24m ²
Occupancy**		372 persons	436 persons	+64

Note **: Based on occupancy rates as per Council's S94 Development Contributions Plan

When compared to the project approval the revised dwelling mix and number results in an additional 39 units and 64 persons. The department notes that this increase has been achieved through improved efficiencies in the internal layout of the building, reductions in the size of apartments and revisions to the dwelling mix. The department considers that the overall increase of apartment numbers and number of persons are minor in the context of a development of this size. The increase in yield is considered acceptable on the basis that:

- the revised dwelling layouts provide an acceptable standard of future residential amenity (refer to **Appendix B**). The department notes that Council has raised no objection to the revised dwelling layouts;
- the apartments (except for the proposed apartment at lower ground level as discussed in **Section 5.4**) will be contained within the approved building envelopes as modified by condition B2 and would not necessitate any changes to the height, bulk, scale of the buildings on the site;
- the corresponding increase of 65 car parking spaces would not have a significant impact on local roads and traffic as the increase will be absorbed into the overall site-wide car parking provision (which is now capped as discussed in **Section 5.2.1**) and traffic generation was considered acceptable as part of the original application;
- the provision of the foreshore link will ensure that sufficient open space will be delivered in support of Stage 1; and
- condition B8 of the project approval requires the development to make a monetary contribution to Council in accordance with the Council's S94 Development Contributions Plan for Council infrastructure. The department recommends that condition B8 be amended to take account of the proposed revised Stage 1 dwelling yield.

5.1.3 Conclusion

The PAC amended the dwelling yields in the original applications in order to address the built form and amenity impacts of the development. No numerical 'caps' were imposed limiting density.

The concept approval does not prevent future applications proposing a quantum of apartments in excess of the indicative dwelling yield. The department maintains its view that urban renewal opportunities on large sites well located to public transport and local services should not be

artificially 'capped' and that density impacts should be assessed on their merits as is the case with this, and the original, proposal.

The revised dwelling mix and yield for the Stage 1 building is considered acceptable as it represents only a minor increase in unit numbers and total number of persons.

The department considers that there are sufficient measures in place (including building envelopes, S94 requirements, open space provision and a cap on car parking) to ensure that the resulting density of the development will be appropriately mitigated.

Overall the department maintains its view that as the site is located within walking distance of local centres and public transport it is strategically well located to provide for increased densities. The modification would facilitate minor changes to the indicative densities, however, as noted within the following **Sections 5.2, 5.4, 5.5 and 5.7** the proposed changes to the approved schemes are considered acceptable within the site context, subject to amendments.

5.2 Car parking provision

Car parking provision was a key consideration in the department's assessment of the concept plan and project application. The department acknowledges that on-site car parking supply is fundamental to traffic generation within the site and surrounding local roads.

The department's assessment of the original applications concluded that the site is well served by public transport and an increased density in this area is acceptable. Furthermore, the department recommended that car parking rates should reflect the lower end of the Council's DCP controls to encourage a mode shift away from private vehicle trips.

The PAC agreed with the department that car parking rates should be in accordance with Council's DCP. However, the PAC did not consider that the car parking rate need reflect the lower end of Council's DCP controls and instead the PAC imposed a FEAR and condition allowing a car parking rate range as shown below:

- 0.6 – 1 space per 1 bedroom apartment;
- 0.9 – 1.2 space per 2 bedroom apartment;
- 1.4 – 1.6 space per 3 bedroom apartment; and
- 1 visitor space per 5 apartments.

5.2.1 Concept plan

The concept plan anticipated that up to 2,976 car parking spaces would be provided for the (indicative) 2,005 dwellings within the site. The department's assessment of the traffic impacts was based on this car parking figure across the site.

The proposal does not include a request to alter FEAR 22 relating to car parking provision of the concept approval, which requires car parking provision in accordance with the rate-range shown in **Section 5.2** above. The applicant has stated that the market trend in this location towards one bedroom apartments will result in an overall net reduction in car parking demands across the concept approval site.

Council has objected to the proposal due to the increase in density and potential increase in traffic impacts. This concern was also raised in public submissions.

In its assessment of the original application the department considered the impact of the proposed car parking provision (2,976 spaces across the concept proposal site) in detail. Overall the department concluded that the provision of 2,976 on-site car parking spaces would have an acceptable impact, subject to the provision of appropriate road infrastructure works. The department recommended that the car parking rate reflect the lower end of the Council's DCP controls to encourage a mode-shift away from private car use, not because the originally proposed car parking rate would have unacceptable traffic implications.

The department also engaged ARUP to undertake an independent assessment of traffic impacts to inform its original assessment. With regard to car parking, ARUP concluded that the proposed on-site provision (2,976 spaces) provided an acceptable balance between managing site traffic generation and negating any adverse impacts on the on-street parking network.

The department notes that the amendments to the Stage 1 building result in an overall increase in the number of apartments and an increase in one bedrooms apartments as a proportion of the overall mix. The combination of the increase in total dwellings and the application of the maximum car parking rate has resulted in an additional 65 spaces within the Stage 1 building. Noting the car parking outcome for the Stage 1 building, the department does not concur with the applicant's forecast that there would be a net reduction in car parking demands across the broader concept plan site. While the department acknowledges that every stage is not identical, if the dwelling number increases and trend toward one bedrooms (as seen in Stage 1) is applied to the remaining nine stages, it is estimated that an additional 585 car parking spaces above what was originally expected would be provided should the higher end of the parking rates be adopted.

In the context of the new trend towards smaller dwellings on this site and to ensure that the mitigation measures (road upgrade works and traffic management measures) remain effective, the department considers it is appropriate to cap the total number of car parking spaces to 2,976 spaces (the total number original assessed for the concept plan site). The proponent may then be able to manage car parking supply across the site by adopting lower car parking rates for future stages as appropriate. Furthermore, the department considers it appropriate that the forecast car parking provision be monitored at each stage to ensure that a reasonable rate of car parking may be provided for future stages and the car parking cap will not be exceeded. The department recommends that FEAR 22 be amended accordingly.

5.2.2 Stage 1 Project Application

The Stage 1 project approval provides for a total of 277 car parking spaces (for 207 apartments). The proposal seeks to increase the number of car parking spaces to 342 (an increase of 65 spaces) for the proposed 246 apartments. Condition B2(b) requires car parking provision in accordance with the rate range noted in **Section 5.2** and shown below in **Table 4**:

Table 4: Stage 1 proposed car parking provision

TYPE	RATE RANGE	NUMBER OF UNITS	SPACES REQUIRED	SPACES PROPOSED
1 bed	0.6 – 1	84	50.4 – 84	84
2 bed	0.9 – 1.2	126	113.4 – 151.2	151.2
3 bed	1.4 – 1.6	36	50.4 – 57.6	57.6
Visitor	1 per 5	-	49.2	49.2
Total			263.4 – 342	342

The proponent states:

- the increase in car parking is in accordance with the Council's car parking rates and condition B2; and
- the car parking would be contained within a new lower basement level and is in response to market demand for smaller units with access to at least one car parking space.

The department notes that the proponent has adopted the maximum car parking rate within the car parking rate range (refer to **Table 4**). The department also notes that the proposed rate of car parking is in accordance with the requirements of the Council's DCP parking controls. Furthermore, as discussed in **Section 5.7.3**, the provision of key road infrastructure upgrades works will be provided at Stage 2.

The department acknowledges that the provision of an additional 65 car parking spaces within Stage 1 represents a 19% increase above the approved situation. However, the department considers that this is acceptable as the:

- the amendment of FEAR 22, discussed in **Section 5.2.1**, will ensure that the increase is absorbed into the overall car parking provision that is capped at 2,976 car parking spaces; and
- impacts of this increase will be mitigated by the provision of key road infrastructure works at Stage 2.

5.3 Foreshore link / open space design

The foreshore link comprises a pedestrian route and landscaped open space located between Stage 1 and 2. The foreshore link will connect the Nancarrow Avenue road extension to the Shepherds Bay foreshore and provide pedestrian access to the Stage 1 and 2 buildings. Approximately half of the foreshore link will be constructed as part of Stage 1 of the development, with the remainder provided in Stage 2.

Due to the significant fall of the site between the Nancarrow Avenue road extension and Shepherds Bay foreshore, the proponent has identified the following issues with the current approved development:

- the Stage 1 development has a stepped building form, which has resulted in the creation of areas of blank walls fronting the public domain (refer to **Figure 13**);
- the foreshore link is uneven and consists of a relatively complex/challenging series of steps and platforms; and
- the foreshore link is provided in addition to the two north/south routes required by FEAR 15 to demonstrate accessible paths of travel through the site.

The proposal seeks to revise the foreshore link design to provide a more gentle, and manageable grade for the majority of its length and then address the overall level of change (between Nancarrow Avenue road extension and the foreshore) through the provision of a substantial staircase at its northern end (refer to **Figures 10 and 12**).



Figure 10: Proposed western foreshore link elevation as seen from the ramped pedestrian route (top) and section through foreshore link platform/terraced open spaces (bottom) (Source: proponent's application and RtS)

Council has objected to the revised foreshore link design, stating that:

- the total drop from the Nancarrow Avenue road extension to the regraded foreshore link would be 9 metres. The resulting staircase which addresses this level change is significant in length, comprises many switch-backs, does not allow for sufficient respite/resting places and would inhibit pedestrian movement;
- the introduction of stairs at the northern end of the foreshore link results in amenity issues (residential amenity is discussed at **Section 5.4.1**);
- the provision of large planters between lower level apartments and the foreshore link inappropriately separates the apartments from the foreshore link; and
- the foreshore link should be delivered at Stage 1 (not Stage 2) as delayed delivery would result in insufficient open space provision for Stage 1.

The department notes that the proposed regraded foreshore link would allow for the provision of six large areas of flat open space. When compared to the approved foreshore link, the proposal has provided an increase in functional/usable open space and an overall reduction of hard-paved circulation areas and staircases (refer to **Figures 11 and 12**). The department considers that these changes represent significant improvements to the overall design, appearance and usability of the public domain.

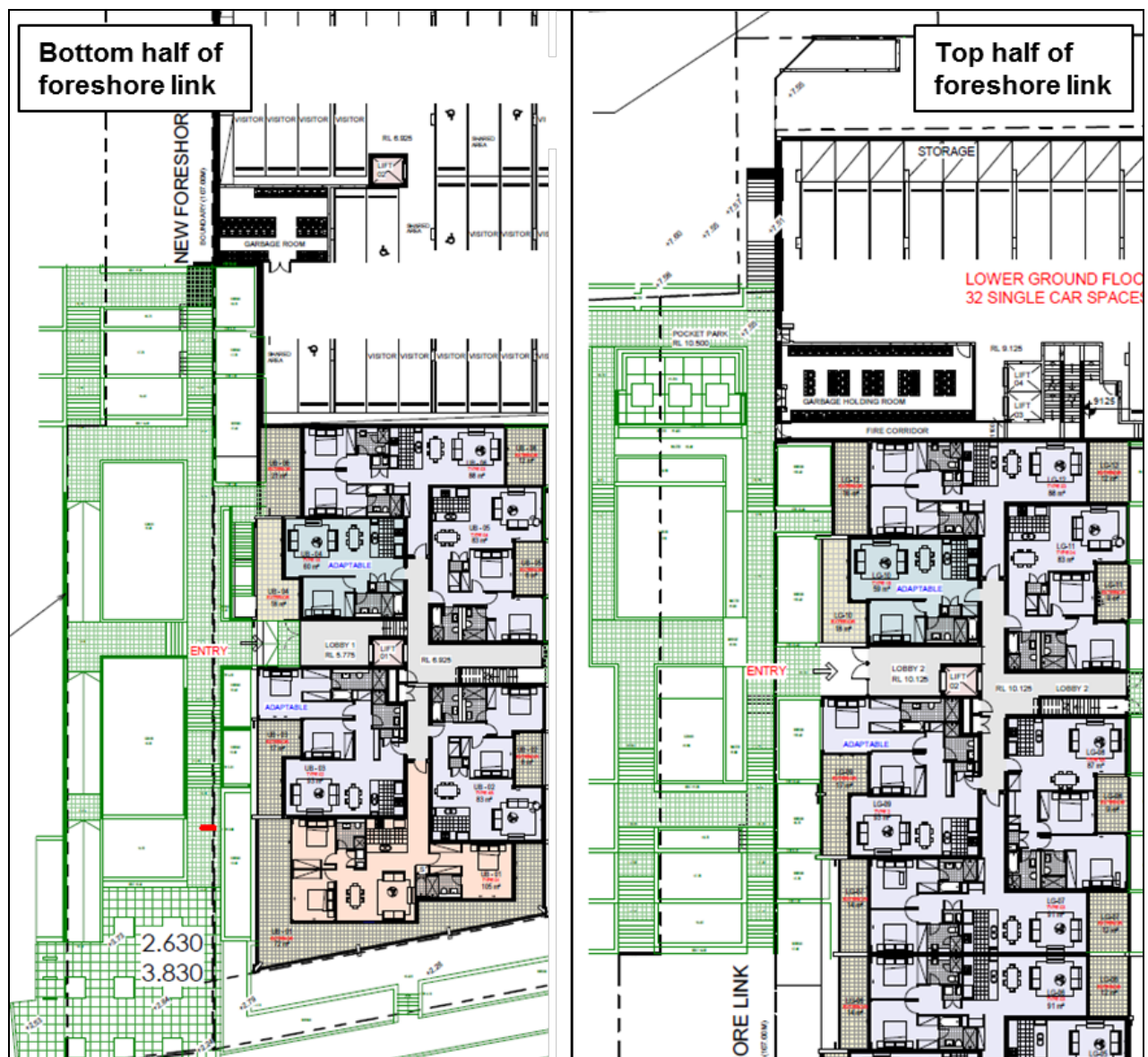


Figure 11: Indicative approved foreshore link layout (Source: condition B2 approved plans)

With regard to the proposed staircase at the northern end of the foreshore link, the department notes that the proposal has been amended to reduce the originally proposed number of switch-backs from five to two and seating areas and landings have also been provided. The department also notes that the terraced nature of the staircase has allowed for the provision of integrated planting, which softens the appearance of the staircase and is expected to provide a green termination of the foreshore link when viewed along its length. Although the department acknowledges that the proposed staircase is significant in size, it considers it to be acceptable given the design improvements and resulting landscaping.

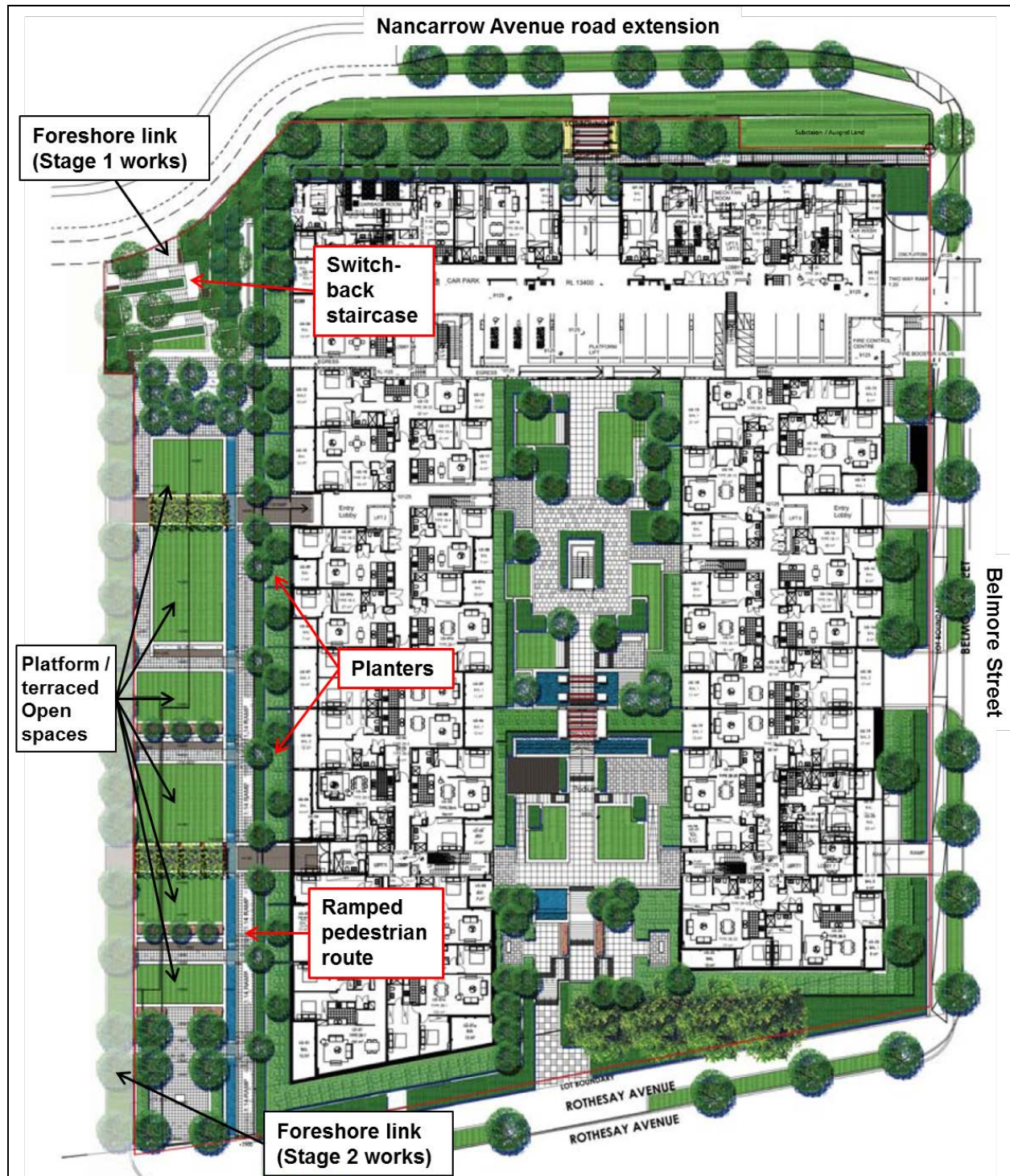


Figure 12: Proposed landscape masterplan including foreshore link (Base source: proponent's RtS)

The department notes that large planters are proposed between the proposed apartments and the foreshore link (refer to **Figure 12**). The department considers this to be acceptable as:

- the planters would allow for the provision of soil depths up to one metre and therefore the establishment of substantial planting (refer to **Figure 22**);
- the provision of a landscaped frontage as a buffer between dwellings and the public domain / street is a standard urban design response. Landscaped buffers are provided to all other street frontages, being Rothesay Avenue, Belmore Street and Nancarrow Avenue road extension elevations;
- the provision of a landscaped buffer would improve the privacy of the proposed apartments; and
- the future landscape planting scheme (condition B3) can be chosen to ensure that the apartments provide a suitable level of passive surveillance.

The department shares Council's concerns regarding the timing of the delivery of the foreshore link. Following further discussions between the department and the proponent the application was amended to:

- enlarge the Stage 1 site boundary to now include the majority of the foreshore link except for a narrow element outside Stage 2 (to allow for construction of Stage 2); and
- delivery of the foreshore link (as outlined above) prior to occupation of Stage 1.

Condition E24, foreshore link public access

Condition E24 requires the establishment of an easement to allow public access to the foreshore link at Stage 1. The proposal seeks to defer the establishment of the easement until Stage 2 to ensure public safety during construction works.

The department does not object to the delay of the establishment of the easement for public access until Stage 2 as the foreshore link will:

- continue to be delivered and planted prior to occupation of the Stage 1 building; and
- be accessible and able to be used by future Stage 1 residents.

5.4 Additional storeys at lower levels

The proposal seeks to allow the insertion of additional storeys at lower levels across Stages 1 to 4. The department notes that a total of 34% of public submissions raised concerns about the amended height of buildings and their interface with the public domain.

The department has considered the impact of the proposed additional storeys to the Stage 1 and broader concept plan in turn below.

5.4.1 Stage 1 Project Application

The proponent has noted that despite the building being stepped in response to the fall of the land, the approved elevations include elements of blank elevations fronting the foreshore link and Belmore Street. This is a result of the steeply sloping topography of the site. The proponent argues that the insertion of apartments in these locations would result in an overall improvement by reducing the extent of blank walls (refer to **Figure 13**). To facilitate the proposed changes, the proposal includes amendments to the Building Storey Plan.

Council has objected to the amendment of the Building Storey Plan and insertion of new apartments at lower levels, stating that:

- there are alternative design solutions to inserting apartments that could address the existence of blank walls;
- the resulting design of the lower level of the western elevation of the Stage 1 building inadequately activates the foreshore link (refer to **Figure 14**); and
- the new apartments have poor amenity standards.

The department considers that the key issues in relation to the additional storeys are:

- built form;
- amenity; and
- activating the foreshore link.

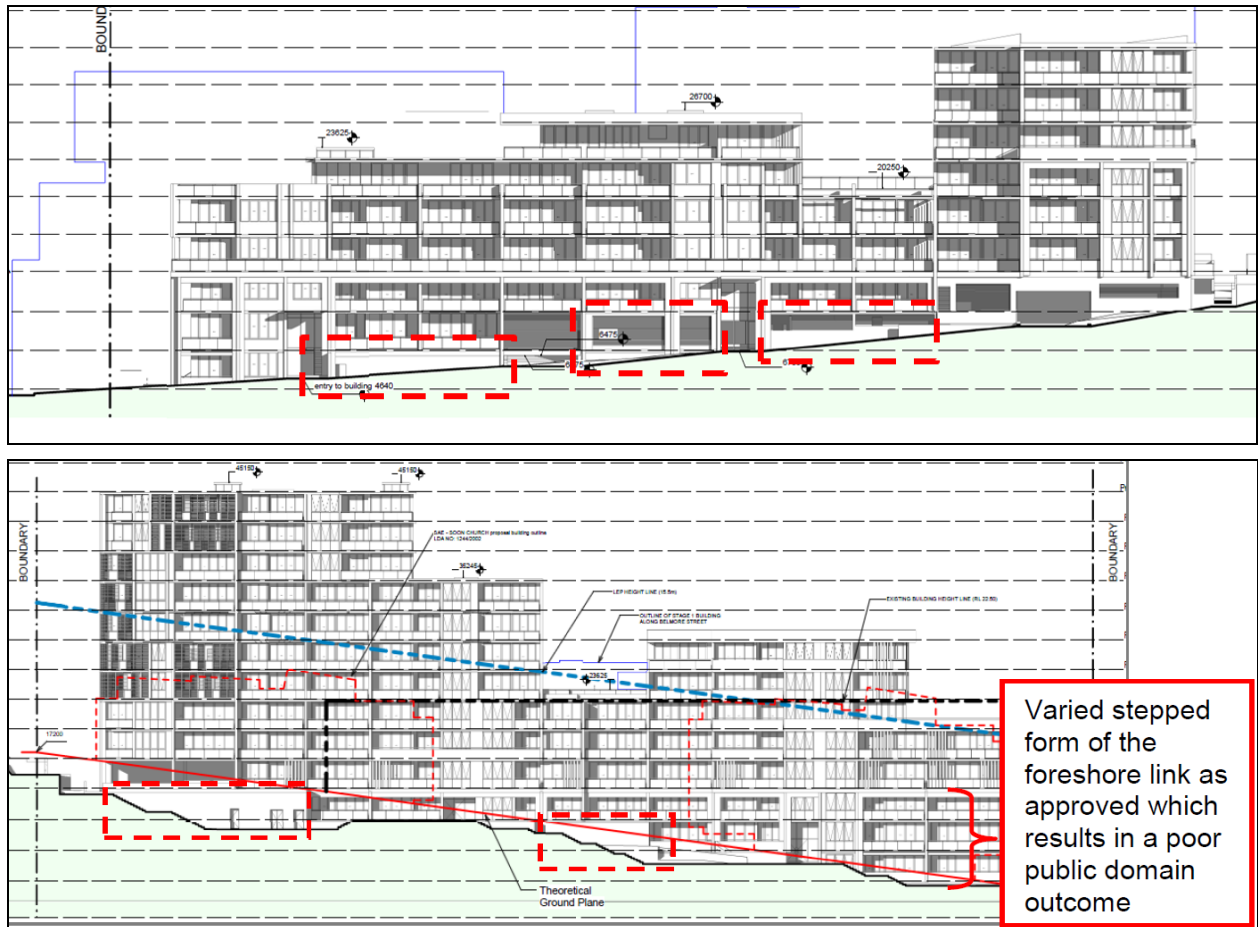


Figure 13: Approved Belmore Street elevation (top) and foreshore link elevation (bottom). Blank walls and service areas outlined in red (Source: proponent's application)



Figure 14: Council identified areas of inactivation along Belmore Street (top) and the foreshore link (bottom) (Source: Council's submission)

Built form

The department supports the re-grading of the foreshore link due to the benefits discussed in this **Section 5.3**. However, the department notes that if that modification is considered in isolation the ground level relative to the approved western elevation of the Stage 1 building would be lowered and therefore would become disconnected from the building (refer to **Figure 15**). The department therefore considers it necessary to consider revisions to the western elevation of the Stage 1 building in the context of the re-graded foreshore link.

The department acknowledges that there are alternative design solutions to addressing the existence of blank walls other than inserting apartments. However, the department considers that in this instance the insertion of apartments at lower levels is appropriate as:

- the success of the design of the revised foreshore link relies on its relationship to, and appropriate design of, the neighbouring buildings which frame it. The insertion of apartments into the lower levels of the Stage 1 building provides good passive surveillance and activation of the foreshore link and an appropriate overall design aesthetic;
- the areas of blank wall fronting the foreshore link and Belmore Street are too significant to be adequately addressed only through landscaping, artwork and/or use of materials;
- as the building is already stepped in response to topography, adding additional steps (enough to address the blank walls issue) would result in a significantly more complicated building design, additional lift cores and reduce the efficiency of the internal layout; and
- the dwellings inserted achieve acceptable amenity standards as discussed later in this section.

When compared to the currently approved buildings the insertion of new apartments would result in a single storey at the northern end of the Stage 1 foreshore link elevation, as shown at **Figure 15**. However, the modification would not result in an increase above the approved RL height. The department considers that in the context of the scale of the approved development, a localised increase in height of the Stage 1 building by one storey would not have an adverse visual impact.

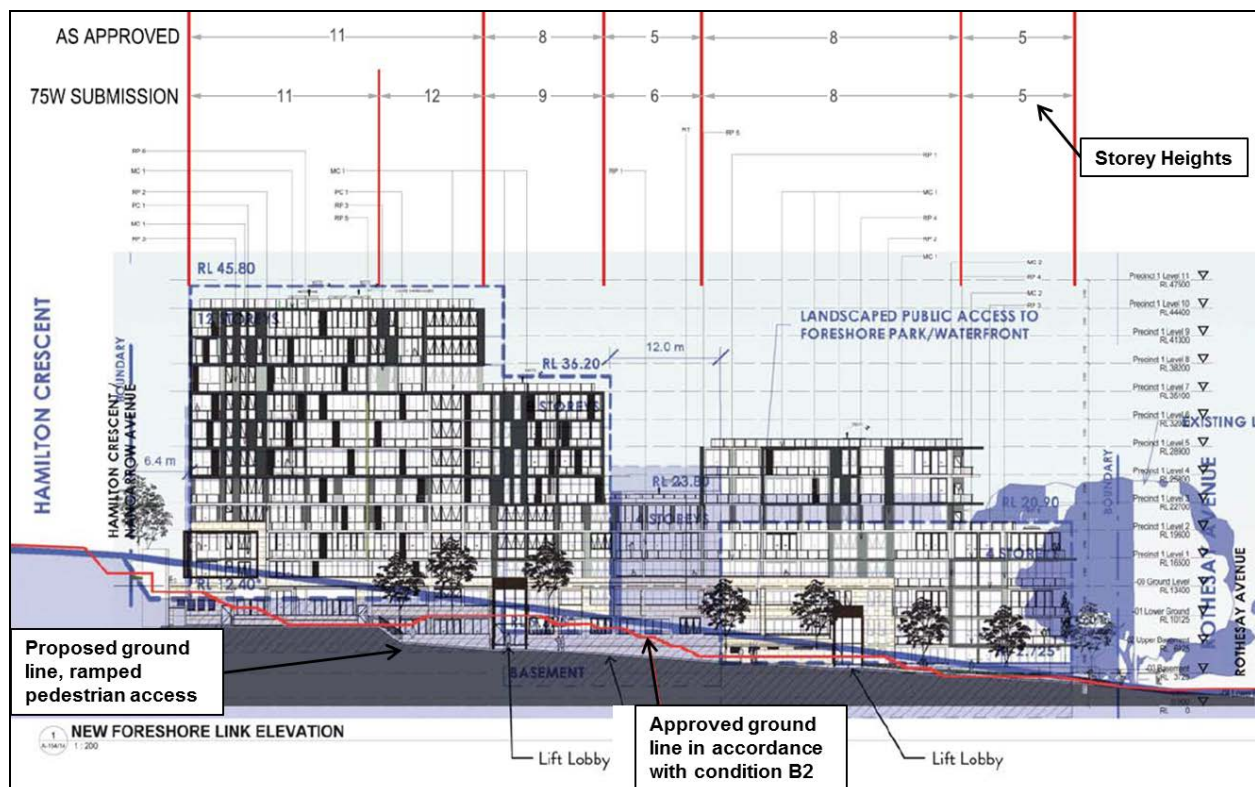


Figure 15: Comparison of ground level and storey heights between the approved and proposed scenarios (Source: proponent's RtS)

Amenity

The proposal includes a total of 12 new apartments at lower levels in the following locations:

- upper basement level: five apartments fronting the foreshore link and three apartments fronting Belmore Street;
- lower ground floor level: two apartments fronting the foreshore link; and
- ground floor level: two apartments fronting Hamilton Crescent / Nancarrow Avenue road extension.

Council has objected to the insertion of the new apartments stating that they all would not achieve acceptable amenity standards in terms of solar access, cross ventilation, outlook, private open space provision and in some cases, privacy. In addition, Council was concerned that the apartments have no direct access from the street / foreshore link and apartments LG24 and LG25 are accessed from the basement car park.

The proponent considers that the apartments provide desirable living standards with access to open space and landscaping, appealing outlooks and courtyard locations. In response to Council's concerns, the design of apartments UB14, UB15, LG24 and LG25 have been amended to include direct access from the foreshore link and the floor to ceiling height of apartments LG24 and LG25 has been increased from 3 to 3.5m.

The department acknowledges that the resulting dwellings would experience varying degrees of solar access and all proposed apartments (except GF14) would be single aspect, without cross ventilation. However, the department notes, when compared to the approved scheme, that overall the revisions to the Stage 1 layout have resulted in an additional 20 apartments achieving the RFDC recommended level of solar access (minimum of 2 hours in mid-winter) and also achieve cross ventilation.

The department considers, as noted within its original assessment, that the orientation of the Stage 1 building and slope of the land represent significant challenges to achieving solar access (having regard to the RFDC rules of thumb), particularly at lower levels. The department has considered the standard of amenity of the new apartments below:

Upper basement floor apartments (UB11 to UB18)

With reference to eight proposed apartments at the upper basement floor level (UB11 to UB18) the department considers that:

- each apartment is provided with an acceptable level of outlook, being onto the landscaped foreshore link or across the Belmore Street (both being approximately 20 metres wide). The outlook is further improved by the existence of significant planted areas;
- a sufficient buffer has been provided to ensure that the apartments are not overlooked. Furthermore, in response to Council's concerns the department notes that the foreshore link has been amended to relocate a minor staircase further away from apartment UB15 to improve its amenity (refer to **Figure 16**);
- a sufficient amount of private open space has been provided as each apartment has been provided with a large courtyard (ranging from 6m² to 16m²); and
- the apartments have an acceptable internal layout and secure access is provided via communal entrances. Apartments UB14 and UB15 also benefit from direct access from the foreshore link (refer to **Figure 16**).

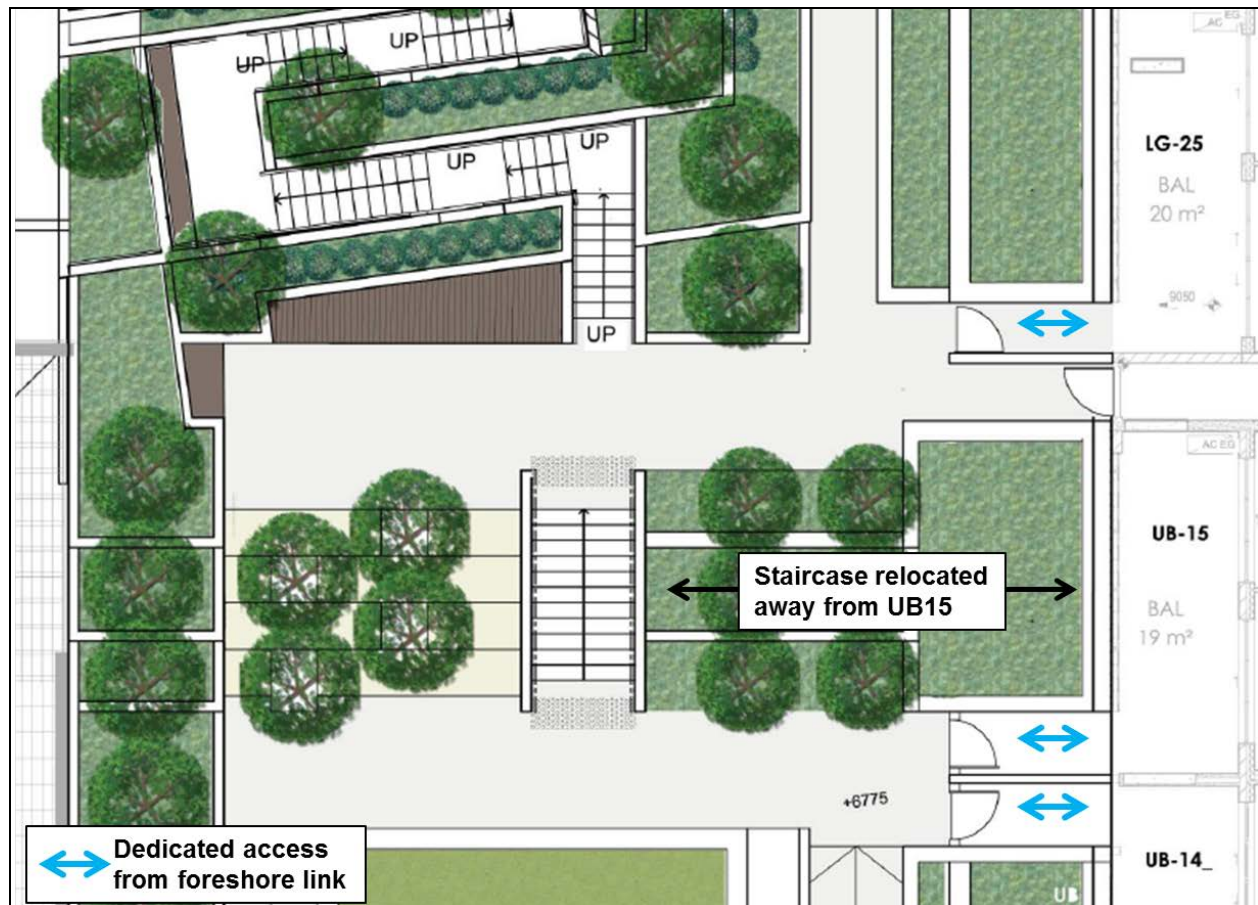


Figure 16: Provision of dedicated access from the foreshore link and location of relocated staircase (Base source: proponent's RtS)

Lower ground floor apartments (LG24 and LG25)

With reference to proposed apartments at lower ground floor level (LG24 and LG25) the department considers that:

- the apartments have an acceptable internal layout and both are provided with acceptable and secure access comprising: dedicated access from the foreshore link, internal lift access from communal circulation areas and corridor access from the car parking level (refer to **Figure 17**);
- a sufficient buffer has been provided to ensure that the apartments are not overlooked. Furthermore, in response to Council's concerns the department notes that the final element of the switch-back staircase has been relocated further away from apartment LG25;
- a sufficient amount of private open space has been provided as each apartment has been provided with a large balcony area (15m²);
- apartment LG25 is afforded an acceptable outlook across the 20 metre foreshore link and lowest level of the switch-back stairs and an increased floor to ceiling height to 3.5 metres; and
- as apartment LG24 is located at the northern most end of the foreshore link and faces into a 10 metre wide alcove on to the eastern side of the nine metre high switch-back staircase, its outlook would be severely limited (refer to **Figure 17**). The department does not consider that the proposed increase in floor to ceiling height or landscaping of the eastern side of the switch-back staircase is sufficient to outweigh the negative impact of the combined limited outlook and solar access, nor can this be easily amended to provide for additional internal amenity. The department therefore recommends this apartment be deleted from the scheme.

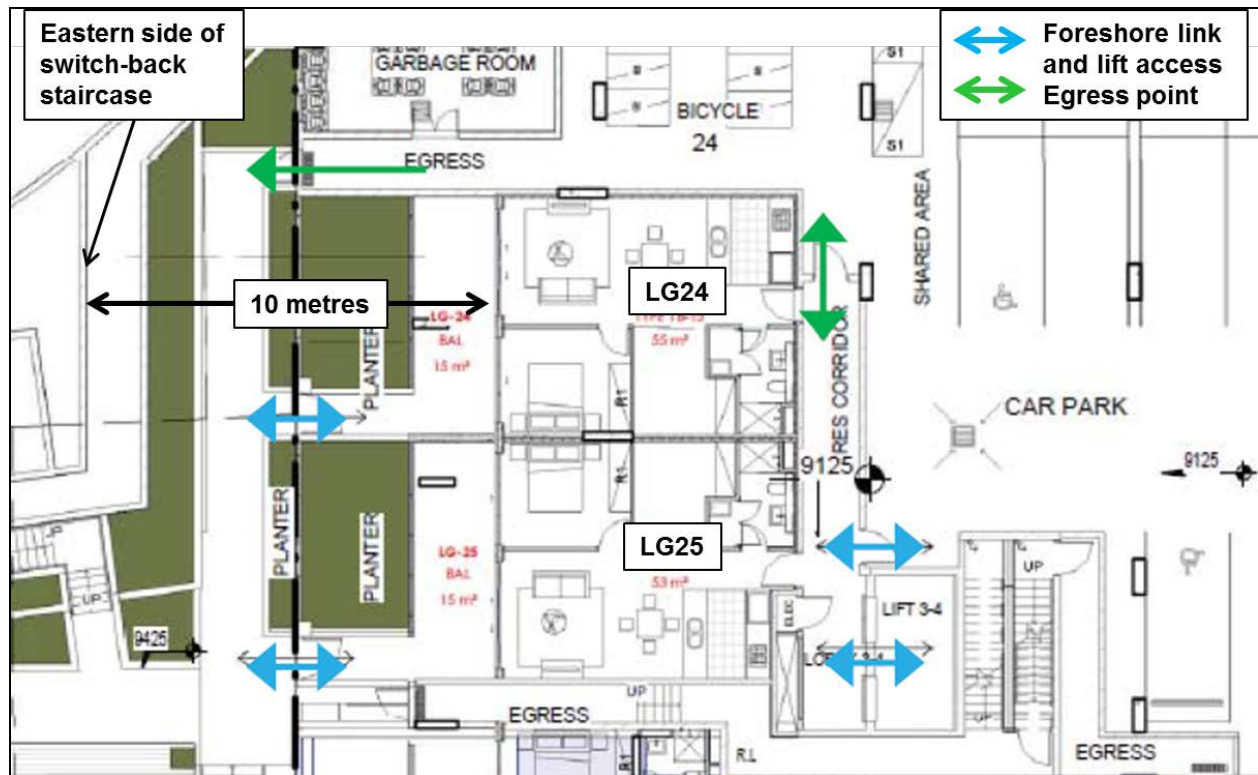


Figure 17: Access to apartments LG24 and LG25 and location of apartment LG24 within the alcove
(Base source: proponent's RtS)

Ground floor apartments GF14 and GF15

The department notes that condition B2 of the project approval required the deletion of two apartments from the north west corner of the building at ground floor level on the grounds of their limited amenity. The proposal seeks to re-insert the apartments removed (GF14 and GF15) stating that they are afforded a high level of amenity due to their separation from the public domain, solar access (to balcony and/or living areas) and as GF14 achieves cross ventilation.

The department notes that the outlook from the deleted apartments would have been towards the blank retaining wall of the Nancarrow Avenue road extension and across a public pathway containing only minor elements of landscaping (refer to **Figure 18**).

The department considers that the proposed apartments achieve an acceptable standard of residential amenity as:

- the design of the Nancarrow Avenue setback area (6.4 metres) has been revised and the proposed apartments would be afforded a pleasant outlook to private and terraced landscaping (including enlarged/improved deep soil areas) (refer to **Figure 18**); and
- any casual overlooking from future pedestrians of the Nancarrow Avenue road extension would be mitigated by a landscaped buffer.

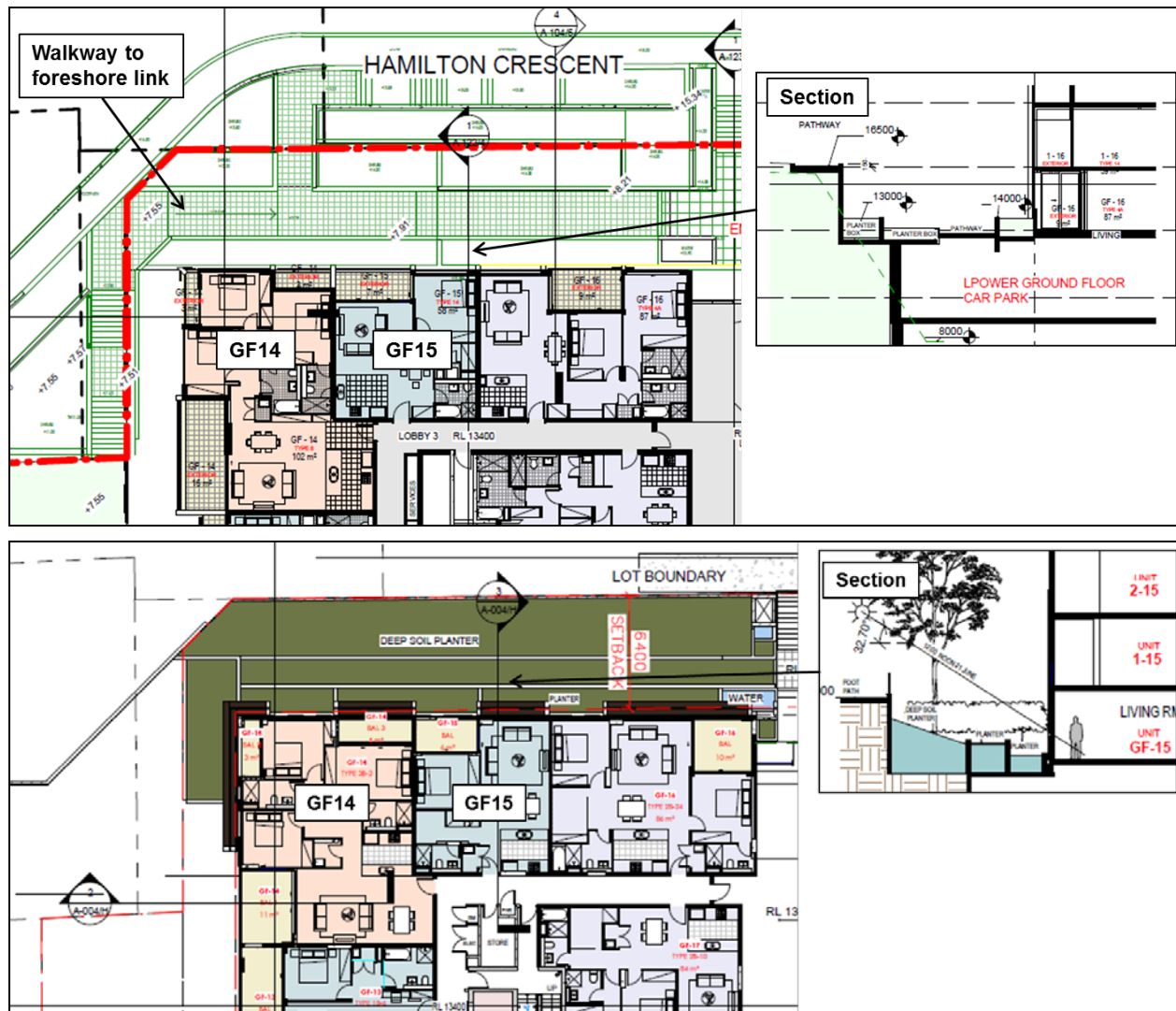


Figure 18: PPR apartments GF14 and GF15 deleted (top) and proposed apartments GF14 and GF15 (bottom) with sections (Base source: PPR MP09_0219 and proponent's EA)

Activating the foreshore link

In response to Council's concerns regarding activation of the foreshore link, four apartments at the northern end of the foreshore link have been given direct access from the public domain. Although the apartments at the southern end of the building do not provide direct access to the foreshore link, they look out onto the space and therefore provide an acceptable level of passive surveillance. The department notes that the middle section of the Stage 1 building fronting the foreshore link provides for apartments at a raised level and is unable to provide direct access from the foreshore link. The department considers that the design of the middle section is acceptable as the:

- building has already been reasonably stepped and further stepping of the building is likely to have unacceptable amenity impacts on apartments and increase internal design complexity;
- flat public open space elements of the foreshore link are platformed/terraced and therefore located higher than the adjacent ramped pedestrian route. The open spaces are therefore more closely related to the height of the apartments in the middle section (refer to **Figure 10**);
- foreshore link and planter areas will include significant landscaped features and the resulting walled area would be clad in appropriate materials;
- affected area is localised to only the middle section of the western façade; and
- provision of multi-storey buildings to either side of the foreshore link will provide a significant level of passive surveillance.

The department considers the insertion of apartments at lower levels, in locations which would otherwise present blank walls is an acceptable solution to the challenges of steeply sloping topography.

The department considers that all except one (LG24) of the new apartments inserted within the lower levels of the Stage 1 building provide for an acceptable standard of amenity. Furthermore, the new apartments fronting the foreshore link would appropriately frame the link and therefore support its success as a new open space area.

Overall, the department considers that the provision of an additional storey at lower levels within the nominated locations of the Stage 1 building would provide an acceptable urban design response and appropriately integrate the building with the surrounding public domain.

5.4.2 Concept plan

The proponent has stated that the matter of steeply sloping land and the associated design issues that impacted the approved elevations of Stage 1 will also be a problem for the remaining Stages of the concept approval. Consequently, to address this the proponent proposes a new FEAR that would (similarly to Stage 1) permit additional storeys at lower levels within Stages 2, 3 and (south eastern corner of) 4 on steeply sloping topography (no changes are proposed to the approved RL height for these stages). The building edges on steeply sloping land are shown in **Figure 19**.

Council has objected to the proposed new FEAR stating:

- the provision of additional storeys would result in a canyon effect between buildings;
- the allowance for additional storeys results in an unrestricted and unpredictable increase in density; and
- the new apartments have poor amenity standards.

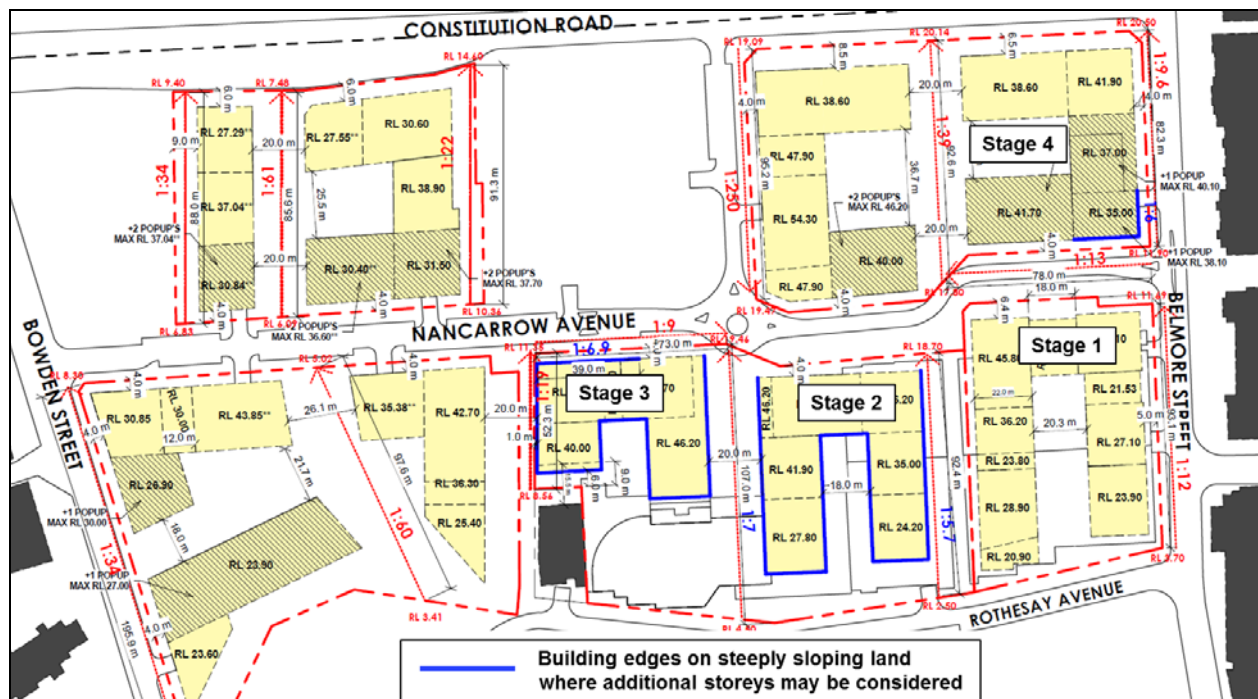


Figure 19: Location of potential additional storeys on steeply sloping land (Base source: proponent's RtS)

As discussed in the previous section, the department considers that the insertion of new apartments at the lower levels can be an effective solution to the issue of blank walls resulting from steeply sloping land. The department considers it reasonable that this principle be applied to

the other Stages of the concept approval, which are also on steeply sloping land. However, the department shares Council's concern about the unrestricted nature of the proponent's request. Consequently, the department recommends that the new FEAR be amended so that appropriate restrictions are provided and in this regard applications must demonstrate that:

- additional storeys are confined to steeply sloping land as indicated;
- the maximum permitted RL is not be exceeded;
- no more than 1 additional storey is provided;
- an acceptable level of amenity is achieved in accordance with FEAR 21; and
- the additional storey is required to appropriately activate the ground level.

The department notes that Stage 1 project approval and the concept approval allows the provision of buildings of significant scale in order to achieve an appropriate urban density for this site. The PAC considered that the scale of the development, as amended by the Building Height Plan, related appropriately to the street and public domain. Noting the scale of the approved development, the department considers (subject to the further restrictions noted above) that localised increases in height by one storey would not have such an impact as to cause a canyon effect between buildings.

With reference to Council's concern about the allowance of additional storeys and density, the department notes that a total of only 11 additional (acceptable) apartments were able to be inserted into lower levels of Stage 1. Using this a rough guide for future Stages 2, 3 and 4 it is likely that there would only be an additional 33 apartments across these stages. The department considers this increase to be minor in the context of the wider redevelopment of the site.

5.5 Residential amenity

The achievement of acceptable future residential amenity standards was a critical issue of the original applications. In its original assessment the department considered the resulting development, due to the steep fall of the land and southerly orientation, would be unable to achieve compliant levels of solar access in accordance with the RFDC guidelines. The PAC considered that although the RFDC non-compliances for Stage 1 were acceptable, future applications should be consistent with the requirements of SEPP 65 and the RFDC.

The proponent is concerned that as a result of the site constraints (being the orientation of development sites, fixed street alignments, sloping topography and arrangement of buildings to enjoy views that apartments within future buildings) future buildings would be unable to achieve the solar access sought by the RFDC and therefore conflict with FEAR 21 as currently worded.

The proposal seeks a more flexible approach to the application of the RFDC requirements and proposes to amend FEAR 21 as follows:

'Future Development Applications shall demonstrate compliance with the provisions that it satisfies the Design Principles of the State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Residential Flat Design Code 2002 (RFDC), where appropriate.'

Council has objected to the proposed amendment stating that it allows too much flexibility and therefore would fail to ensure future residential accommodation achieved appropriate amenity standards.

Although the department shares Council's concern that the relaxation of the RFDC requirement allows too much flexibility, the department considers that there is reasonable justification for the allowance of some flexibility given the constraints of the southern slope of the site and the alternative amenity offered by elements such as water views to the south.

The department's previous assessment noted that the future buildings of the concept approval are unlikely to comply with RFDC guidelines for solar access. Notwithstanding this, the

department noted that an acceptable level of amenity would be provided throughout the development in the following respects:

- south-west facing apartments in the buildings south of Nancarrow Avenue enjoy water views to Shepherd's Bay/Parramatta River;
- many south-east and north-west facing apartments in these buildings also enjoy views from balconies towards the water;
- the buildings in the south of the site are exposed to cooling breezes off the water;
- north-east facing apartments which do not enjoy views to the south generally have improved solar access; and
- a light colour palette of materials can provide reflected light / daylight access to improve residential amenity throughout the development.

The department considers that this previous assessment is still relevant.

In light of the above, the department recommends FEAR 21 be amended to reflect the FEAR as recommended by the department within its previous assessment. This FEAR recommends that the development comply with the provisions of the RFDC, however, should less than 70% of apartments achieve 2 hours solar access (beyond the first 30%) their design/amenity shall be improved by:

- including extensive glazing (minimum 70% of the external façade) to living rooms;
- permitting cross-ventilation; and
- exceeding RFDC guideline by at least 10% in at least one of the following areas:
 - increased floor to ceiling height; or
 - increased minimum apartment areas.

Overall, the department considers that future development applications should achieve appropriate amenity standards. However, given the site constraints the department maintains its view that the development is unable to fully comply with RFDC provisions regarding solar access. Consequently, it is reasonable (and in keeping with the intent of the RFDC) that allowances be given where other amenity based performance criteria can be met. The department is satisfied that this approach will result in the delivery of the best form of housing within the constraints posed by the site.

5.6 Basement design

The proposal seeks to amend the design of basements across the site and at Stage 1. The department considers that the key issues are:

- joining basements;
- basements exceeding more than one metre above ground level; and
- Stage 1 setback to Nancarrow Avenue road extension and deep soil.

5.6.1 Joining basements

The concept approval allows for the construction of 12 building envelopes (within 10 Stages) that include basement car parking envelopes. FEAR 4 requires basement car parking envelopes to be located below building footprints and not to encroach into street setbacks. The proposal seeks to extend basement car parking envelopes beneath the central courtyards of the future buildings and expand and connect the basement car parking envelopes between Stage 2/3 and between Stages 4/5 (refer to **Figure 21**).

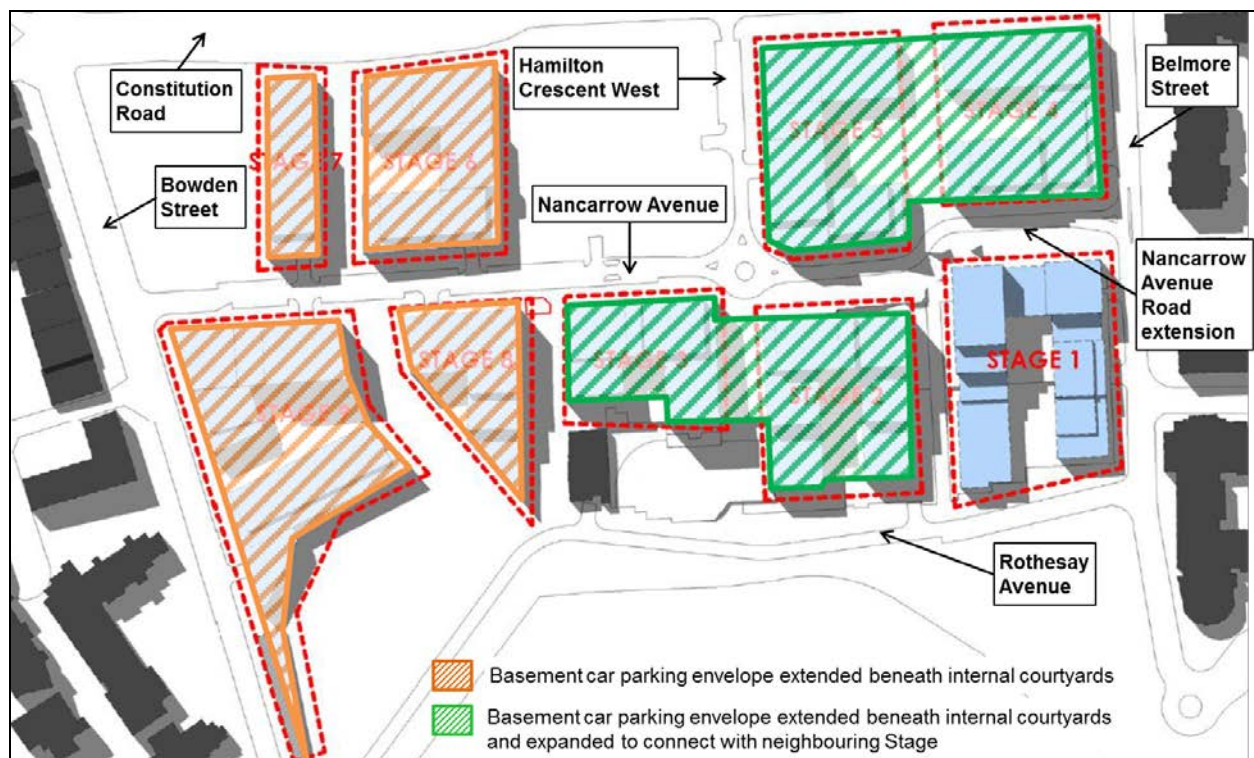


Figure 21: Location of basement car parking envelope expansions beneath internal courtyards and between Stages (Base source: proponent's application)

The proponent states that the proposed modifications would:

- allow for optimal basement parking arrangements that will improve parking functionality and result in a more efficient excavation and construction outcome;
- retain high quality landscaping within courtyards and deep soil landscaping within street setback areas;
- not result in deep soil areas being reduced below 25%, in accordance with the RFDC; and
- reduce the total number of vehicular access points required for the combined basement areas (Stages 2/3 and 4/5), which will benefit the public domain.

Council objects to the extension and the connection of basement car parking envelopes stating that the proposal results in insufficient deep soil planting areas and encroaches on street setbacks.

The department notes that the concept approval did not specify the location of deep soil planting areas. However, in response to Council's concerns, the proponent has provided an indicative landscaping plan (refer to **Figure 22**). The plan indicates the locations for deep soil planting areas, other landscaped areas and the varied soil depths that can be achieved in the case of the extension and connection of basement car parking envelopes.

The department notes that the extension of basement car parking envelopes beneath the internal courtyards and also between Stages 2/3 and 4/5 would prevent the provision of deep soil planting areas. However, notwithstanding this, it would still be possible to provide a variety of soil depths within raised planted areas (some with depths up to one metre) that could provide for a range of landscaping options including grasses, shrubs and trees in these areas. Deep soil planting areas are able to be provided to the periphery of the proposed buildings within street setbacks and at other key areas such as at the foreshore link staircase and along the Shepherds Bay foreshore.

To ensure that the development maintains a suitable amount of deep soil areas the department recommends that FEAR 21 be amended to require a minimum deep soil area of 25% in accordance with the RFDC.

The department notes that the expansion and connection of basement car parking envelopes between Stages 2/3 and 4/5 occurs beneath the north/south pedestrian links and not beneath roads. Consequently, the department does not consider that the basement encroaches into 'street setbacks' as required by FEAR 4.

Overall the department considers that the proposed extension and connection of basement car parking envelopes are acceptable and would not adversely impact on the provision of an appropriate level of deep soil planting areas or landscaping throughout the site.



Figure 22: Indicative landscaping plan showing deep soil planting areas and other areas with a variety of soil depths (source: proponent's RtS)

5.6.2 Basements exceeding more than one metre above ground level

The department notes FEAR 4 requires that basement parking levels do not exceed one metre above ground level (finished) and the proposal seeks to vary this condition to allow this restriction to be exceeded when the following performance standards are met:

- an aesthetically pleasing interface is achieved;
- appropriate landscape screening is provided; and
- appropriate articulation is achieved and quality materials/finishes used.

Council has objected to the proposed amendment to FEAR 4 stating that the one metre limitation is necessary to ensure that resulting buildings are appropriately stepped in response to the topography of the site and therefore ensure a quality relationship with the public domain.

The department considers that the design challenges presented by steeply sloping land are significant and warrant the allowance of more flexible approaches to ensure an appropriate overall design outcome that is tailored to the site circumstances. Consequently, the department

considers that basement parking levels should be allowed to exceed one metre, subject to the design performance criteria being met. The department also notes that Council would have the ability, as part of the future development assessment process, to seek amendments to future designs should it consider that the proposed stepping of buildings is insufficient.

For the avoidance of doubt, the department also recommends that the FEAR be amended to confirm that basement parking levels less than 1.2 metres above finished ground level are not regarded as a 'storey' pursuant to the Maximum Storey Plan.

5.6.3 Stage 1 setback to Nancarrow Avenue road extension and deep soil

The proposal seeks to reduce the Stage 1 basement car park level setback at Hamilton Crescent / Nancarrow Avenue road extension from 6.4 metres to between 3 to 3.5 metres (refer to **Figure 23**). The proponent has stated that the alteration would allow for improved circulation and parking arrangements and the inclusion of lockable storage areas.

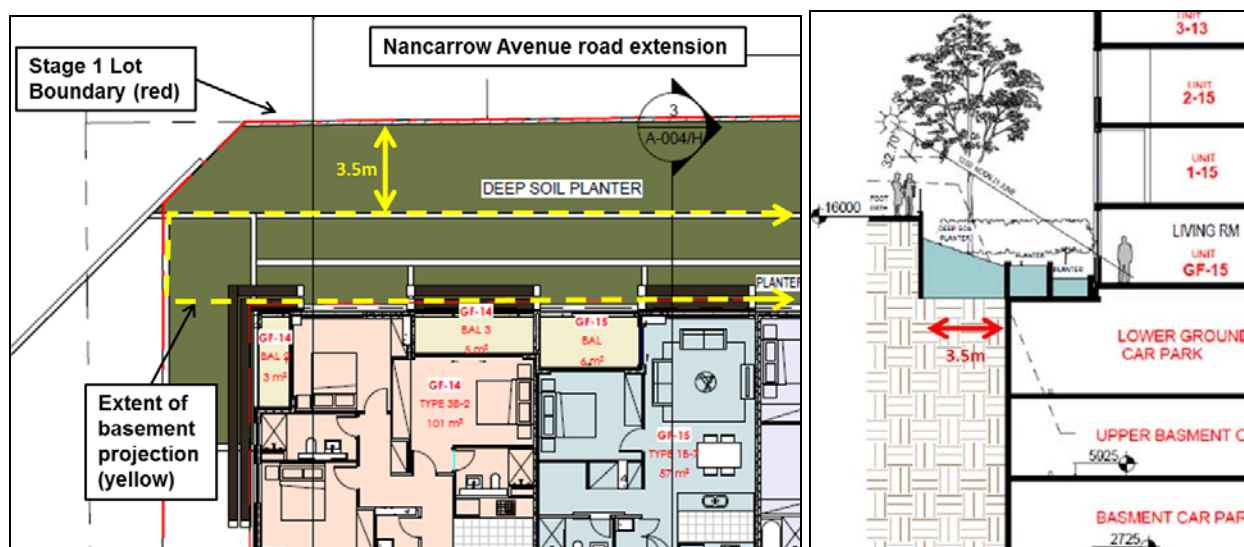


Figure 23: Plan (left) and section (right) of deep soil and non-deep soil planting areas between the Stage 1 building and Nancarrow Avenue road extension (source: proponent's application and RtS)

Council has objected to the proposed expansion of the basement envelope and consequential reduction of setback to Hamilton Crescent due to the reduction of deep soil planting area. Furthermore, Council is concerned that as the Nancarrow Avenue road extension design has not yet been agreed (condition B29), the extension of the basement car parking envelope could impact on future road design and delivery.

In response to the department's request for further clarification of the impact of the expansion of the basement northwards, the proponent has provided information confirming that a minimum width of only two metres is required to sustain street tree planting (refer to **Figure 24**) and therefore an appropriate level of sufficient deep soil area, as proposed, is provided.

The department considers that the proposed reduction of basement setback is acceptable as:

- although the width of the deep soil planting area is restricted to 3.5 metres, the length is uninterrupted for 31 metres and therefore allows for the lateral root spread of future trees;
- when compared with the approved scheme (refer to **Figure 18**) the proposal results in an overall increase in soft planting area and the removal of hard-paved circulation space; and
- the non-deep soil planted area located above the basement extension would achieve soil depths of between 450mm to one metre, which will provide for a vegetated buffer that complements the planting in the deep soil zone.

The department considers that as a landscaped buffer is retained between the road and the extent of the basement it is unlikely that the enlarged basement would have an adverse impact on road design. Further detailed discussion on the Nancarrow Avenue road extension is provided at **Section 5.7.3**.

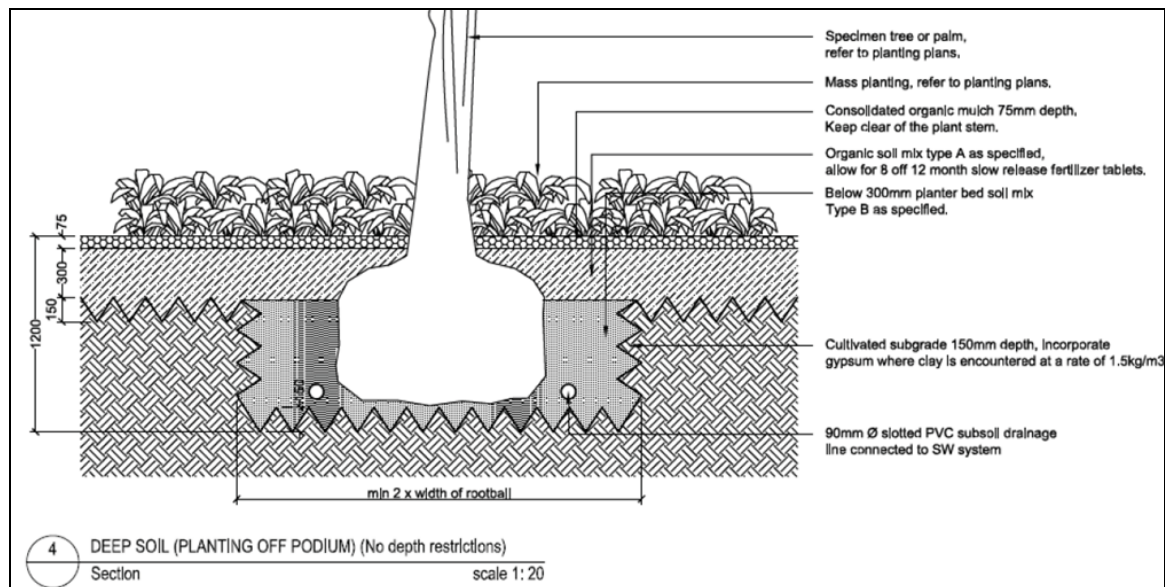


Figure 24: Street tree planting requirements (source: proponent's RtS)

5.7 Staging

The proposal seeks amendments to a number of aspects of the staging of the development (refer to **Figures 6 and 7**). The department considers that the key issues are:

- timing of delivery of contiguous open space; and
- timing of Nancarrow Avenue road extension.

5.7.1 Timing of delivery of contiguous open space

The proposal seeks to amend the timing of the delivery of the contiguous open space from Stage 1 to Stage 3 to prevent potential damage of the space resulting from construction of neighbouring Stages 2 and 3.

Council raised no objection to the revised staging of the open space provision subject to it remaining in private ownership and not being offset against Section 94 contributions. Concerns were raised in public submissions that the project approval condition (B2A) relating to the provision of the open space should not be deleted.

The department notes that the proponent has committed to providing the contiguous open space at Stage 3 within the updated Statements of Commitments. However, condition B2A includes additional requirements regarding dedication to Council which would be lost if that condition were to be deleted. Consequently, the department recommends a new FEAR that requires the provision of the open space prior to first occupation of Stage 3 and also subject to the original dedication requirements in condition B2A, which is recommended to be deleted.



Figure 25: Location of the contiguous open space in context of proposed staging (Base source: proponent's EA)

5.7.2 Timing of Nancarrow Avenue road extension

In its assessment of the original application the department considered the traffic and transportation implications of the proposal in detail and also engaged ARUP to undertake an independent assessment of traffic impacts to inform its assessment. The department concluded that the surrounding road network is capable of accommodating the development subject to road upgrade works. The PAC concurred with this view and imposed the following FEARs on the concept approval:

- FEAR 24 requires that the necessary road works be included with the Stage 2 development application (the road works include: Nancarrow Avenue extension (Hamilton Crescent), road reserve upgrades, intersection amendments, traffic management measures, installation of a roundabout and pedestrian facilities); and
- FEAR 25 requires that Stage 4 provide for the left-in/left-out arrangements at Belmore/Yerong Street intersection.

The department notes that condition B29 of the project approval required that detailed plans and specifications of the Nancarrow Avenue road extension be submitted for Council's approval prior to the issue of a Construction Certificate for Stage 1. Council has confirmed that although details have been provided, it does not consider the proposed design/s to be acceptable and negotiations are ongoing with the proponent.

The proposal seeks to change the timing of the delivery of the road upgrade works required by FEAR 24 from approved Stage 2 to proposed Stage 4 and FEAR 25 from approved Stage 4 to proposed Stage 5 (refer to **Figure 26**). The proponent states that the amendment would allow for a more logical and efficient construction process.

The Council has objected to the delay of the road upgrade works to Stage 4 stating that there is a risk that insufficient space will be reserved for the provision of the new roads (as a result of the development of proposed foreshore link and basement level of Stage 1). Council also noted that there may also be interface issues between future buildings and the roadway.

An excerpt of the approved and proposed indicative staging plan is provided at **Figure 26** for ease of reference.

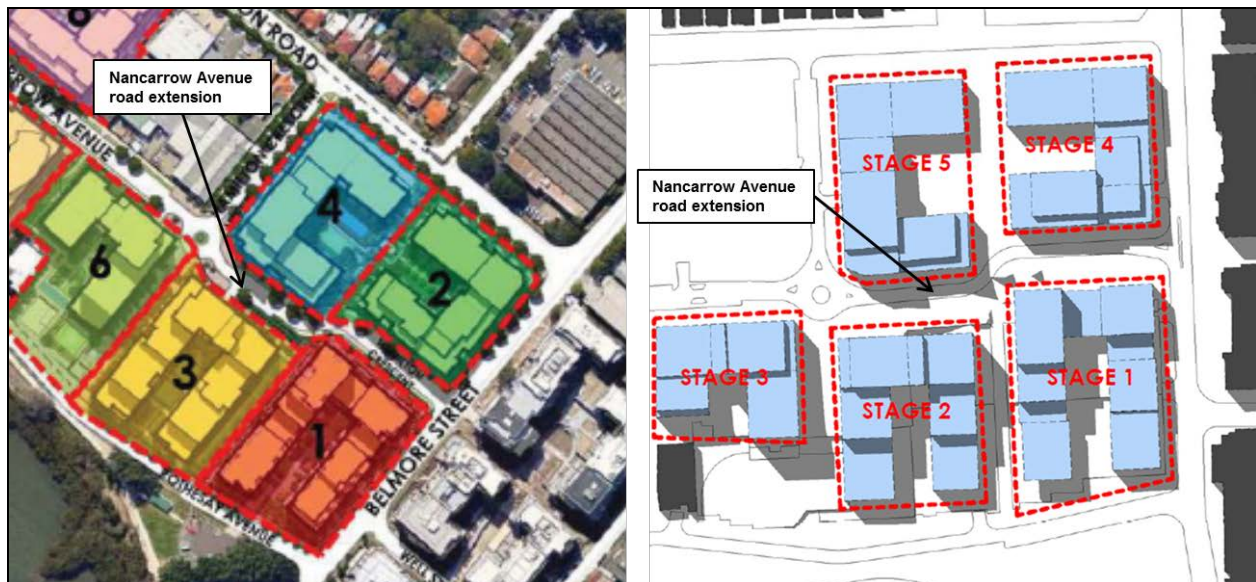


Figure 26: Excerpt of the approved indicative staging (left) and proposed indicative staging (right) (source: concept approval and proponent's application)

The department notes that the proponent has provided supporting traffic and civil engineering advice, which confirms that the road reserve footprint provides sufficient space to allow for the construction of the future road.

The department notes that ARUP recommended that the new road link be provided at approved Stage 2 (which is now proposed to be Stage 4).

The department considers that the deferral of the delivery of the Nancarrow Avenue road extension until proposed Stages 4 is acceptable for the following reasons:

- proposed Stages 1 and 2 can be accessed from Rothesay Avenue and Stage 3 from the existing Nancarrow Avenue. Therefore none of these Stages intrinsically rely on the delivery of the proposed road extension for vehicular access. The department notes that Council has not objected to the access of these Stages from the above noted points;
- sufficient road reserve width can be provided together with appropriate level transitions subject to the detailed design of the road being updated to take account of the revised foreshore link staircase design and basement extension of the Stage 1 building. The department therefore recommends that condition B29 be updated to ensure these necessary re-designs are undertaken and submitted for Council's approval;
- the construction and occupation of Stages 1, 2 and 3 alone would not necessitate the need for the delivery of the new road in terms of traffic capacity; and
- although ARUP recommended the provision of the publicly accessible road extension at Stage 2, a temporary east/west pedestrian link could be provided between the foreshore link and existing Nancarrow Avenue instead (until a new road is installed) to address the desire for lateral movement across the site (a new FEAR is recommended accordingly).

In light of the above assessment the department recommends that FEAR 24 be amended to make reference to Stage 4 as proposed.

In the interest of pedestrian safety and to manage traffic flows the department considers that the remaining road upgrade works (pedestrian crossing facility at Bowden Street, Underdale Lane traffic management measures and installation of a roundabout at the Belmore Street / Rothesay Avenue junction) should still be required at Stage 2. The department therefore recommends a new FEAR that requires the provision of these road upgrade works together with the provision of a temporary pedestrian route at Stage 2.

The department notes that the amendment to FEAR 25 would result in the delay of Belmore/Yerong Street intersection works by one stage and the proponent has not provided any specific justification for this change. ARUP's original advice on this issue recommended that the intersection upgrade occur prior to the occupation of the 800th dwelling within the concept approval site. Noting the potential changes to dwelling yield as discussed in **Section 5.1** and to ensure the works are provided when they are needed the department recommends that FEAR 25 be amended and require the delivery of the road works prior to the occupation of the 800th dwelling.

5.8 Height of corner element at Belmore Street / Constitution Road

The original concept plan PPR provided for five storey buildings along Constitution Road and an eight storey corner building at the junction of Constitution Road and Belmore Street. The department notes that the PAC's determination amended the proposed height of the corner building. However, the height restriction of the Storey Height Plan (which the PAC appended to the concept approval) and FEAR 3 are not the same, as:

- the Storey Height Plan restricts the corner building to a maximum of six storeys (refer to **Figure 4**); and
- FEAR 3 restricts all buildings along Constitution Road to five storeys.

The modification seeks to amend FEAR 3 so that it reflects the storey heights allowed by the Storey Height Plan. In support of this request the proponent notes:

- the approved Maximum RL Height Plan (which the PAC also appended to the concept approval) sets a maximum RL height for the corner building of RL 41.90, which is higher than the remainder of Constitution Road (RL 38.60);
- the provision of a sixth storey creates a feature element, which is consistent with the height of existing buildings on Belmore Street and complements the surrounding townscape; and
- the sixth storey would improve the design and articulation options for the future building.

Council has objected to the provision of a sixth storey on the corner building stating that the corner nature of the building and its relationship to the street can be addressed through building articulation and architectural treatment within a five storey envelope and does not necessitate an increase in height.

The department notes the inconsistency between the Storey Height Plan and FEAR 3. However, the department is satisfied that it was the intention of the determination to allow for a six storey building in this location, as an increase in height at the corner is corroborated by the Maximum RL Height Plan (refer to **Figure 20**). Furthermore, the department notes that the buildings on Belmore Street opposite the proposed corner building are 6 storeys in height and therefore the provision of a six storey building in the proposed location is acceptable in this context. The department recommends that FEAR 3 be amended accordingly.

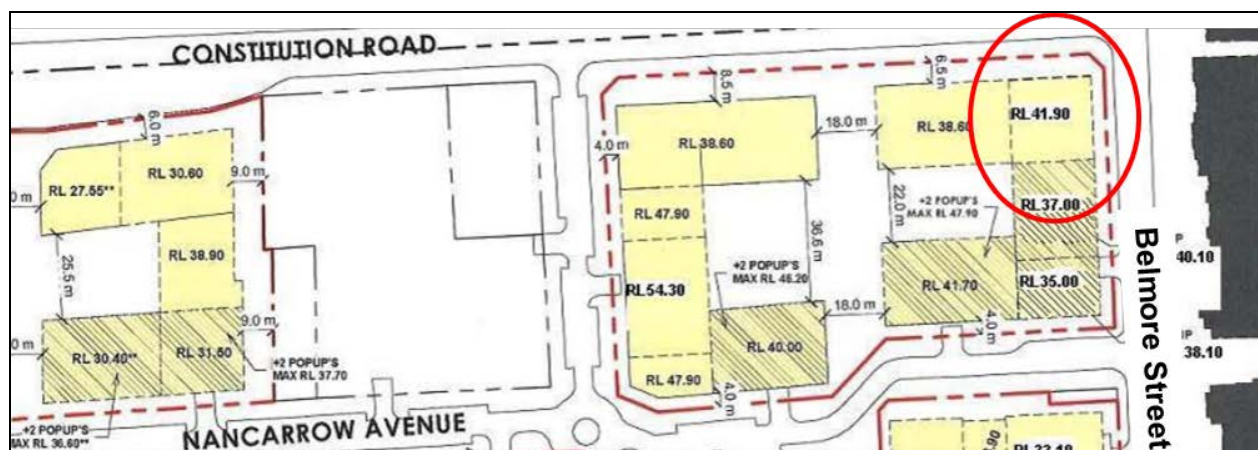


Figure 20: Excerpt of the concept approval RL Heights Plan, the Constitution Road and Belmore Street corner building circled in red (Base source: the concept approval)

5.9 Other issues

Amendment of ESD targets

The original applications were supported by an Environmentally Sustainable Development (ESD) Guidelines Report. The Report addressed the relevant ESD categories and provided 'base targets' for the purpose of guiding the design of the concept site. The report also included 'stretch targets' as optimal design guidelines to be achieved if/where possible. FEAR 22 of the concept approval and condition B37 of the project approval (the ESD Conditions) require compliance with the base targets. In addition the ESD Conditions also require the development to comply with the stretch targets where no base target is provided.

The proponent considers that the ESD Conditions over commit the development to comply with the stretch targets, which in certain circumstances are unattainable. The proposal therefore seeks to amend FEAR 22 and condition B37 to allow further flexibility. The proponent states:

- the intent of the ESD Guidelines Report is that the ESD Targets are set out to achieve at least four of the ESD categories, as opposed to all of them;
- high achievement in four of the six categories would represent an excellent sustainability outcome and one equivalent to 'industry best practice';
- the FEAR/condition should be amended so that base targets and stretch targets are met 'where relevant and feasible'; and
- the FEAR/condition should be amended so that BASIX is used to test industry best practice for water and energy. The proponent has offered 10% better than the BASIX pass mark for water and energy.

Council has raised concerns about the amendments to the ESD Conditions stating that the insertion of the phrase 'where relevant and feasible' is too ambiguous. Whilst Council did not object to the change to the ESD Conditions to link water and energy to BASIX, it did state that the development should exceed the pass mark by more than 10% (as proposed).

The department shares Council's concern that the insertion of 'where relevant and feasible' for the base targets would result in ambiguity as to when a target is relevant and/or feasible. Therefore the department does not consider it appropriate to add the additional flexibility with regard to base targets. With regard to the stretch targets, however, the department considers that it is appropriate to amend the condition so that is clear these targets are aspirational only.

The department's assessment of the original applications concluded that the development would be consistent with the principles of ESD if it achieved targets in a minimum of four of the six ESD categories. The department therefore recommends that the condition be updated to reflect this minimum requirement.

The department does not object to the revision of the condition to include the use of BASIX to test 'industry best practice' for water and energy. The department acknowledges Council's comments, however, it does not consider that there is reasonable justification for requiring the development to exceed the 10% offered.

Service infrastructure/utilities

Condition B27

Condition B27 of the project approval requires all new service infrastructure/utilities (eg substations, fire hydrants and gas meters) to be located within the building envelope unless otherwise agreed with Council. In order to allow for flexibility, the modification seeks to amend condition B27 to allow for the location of service infrastructure/utilities to be approved by the Accredited Certifier, rather than Council.

Council has raised concern about the proposed amendment stating that Council should be involved in any relocations outside building envelopes as such changes could have significant impacts on the amenity of the public domain.

The department is confident, in the event that an alternative location(s) for service infrastructure/utilities is required that the proponent and Council would be able to work jointly towards an agreed solution. Furthermore, as Council will be the Consent Authority for all remaining Stages of the development (which includes all public domain), it is appropriate that it be involved in discussions that may impact on the quality and amenity of the public domain. The department therefore does not consider it appropriate to remove the requirement for Council's approval from this condition.

New electrical sub-station

The proposal includes the provision of an electrical substation at the north east corner of the Stage 1 building, outside the Stage 1 building envelope. The applicant has confirmed that this substation is required to replace the large Ausgrid substation that was recently removed from the corner of Belmore Street and Hamilton Crescent.

Council has raised no objection to the proposed provision of the electrical sub-station.

The department considers that although the sub-station is located outside the building envelope it is acceptable subject to appropriate screening. The department notes that existing condition B3(b) requires the submission of details of appropriate screening/landscaping for external sub-stations.

Wind tunnel testing

Condition B26 requires that wind tunnel testing be undertaken for the Stage 1 building to confirm that a minimum of 60% of apartments achieve natural cross ventilation, or equivalent ventilation conditions, in accordance with the RFDC.

The proposal seeks the deletion of condition B26 as the Natural Ventilation Report confirms that the development would achieve the 60% natural cross ventilation, or equivalent. The department is satisfied that the proposed apartments would achieve acceptable levels of natural ventilation and therefore recommends the deletion of condition B26.

Access

Condition B23 requires that the recommendations of the Access Review be incorporated into the design of the Stage 1 building to ensure the development provides equitable access. The proposal has been accompanied by an updated Access Review, which details further physical aspects and access arrangements to ensure the development maximises reasonable provisions of access for people with disabilities.

The proposal seeks to amend condition B23 so that it takes account of the updated Access Review. The department is satisfied that the updated Access Review incorporates appropriate measures and access arrangements to ensure that the development is adequately accessible for people with disabilities. The department therefore recommends that condition B23 be updated accordingly.

Plans

As noted in **Section 1.2**, the concept approval was updated by amended plans to satisfy condition B1. The proponent has requested that condition A2 be updated to include reference to those plans. The department considers this amendment to be acceptable as it provides an updated single point of reference for the approved plans.

Condition B2(c) required sill heights to be raised for two apartments to prevent overlooking between apartments. The Stage 1 plans have now been amended and do not indicate raised sill heights in this location. Consequently the department recommends a new condition that requires the provision of raised sill heights.

6. CONCLUSION AND RECOMMENDATIONS

The purpose of this report is to assess a request to modify concept plan MP09_0216 and project application MP09_0219 under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) relating to the Shepherds Bay / Meadowbank redevelopment. The modifications seek to revise open space design, staging and construction timing/delivery, building heights, residential amenity standards, internal and external layouts, dwelling mix. Associated new, deleted, reworded conditions and commitments are also proposed.

The proposed modification falls within the scope of section 75W of the EP&A Act and does not alter the original assessment as to the site's suitability for the approved development.

In assessing this application, the department has reviewed the proponent's application and submission dated 1 November 2013, Council's submissions, public submissions and the proponent's Response to Submissions.

The concept approval does not include a cap on dwelling yield and does not prevent future development applications providing for a number of dwellings in excess of the indicative dwelling yield. The department maintains its view that urban renewal opportunities on this large site should not be subject to such a cap if higher densities can be accommodated without adverse environmental impacts. As the site is located within walking distance of local centres and public transport it is strategically located to provide for increased densities. The modification would facilitate minor changes to the indicative densities, however, the proposed changes to the approved schemes are considered acceptable within the site context, subject to amendments. Furthermore, to ensure that there are no additional traffic impacts the concept plan car parking rate is capped to 2,976 spaces.

The proposed re-grading of the foreshore link between Stages 1 and 2 results in significant improvements, particularly in terms of functional open space provision, which will benefit the development and wider community. The provision of a new staircase at the northern end of the foreshore link, as amended, is considered acceptable and the delivery of the foreshore link at Stage 1 remains appropriate.

The site is constrained by its topography, which has caused challenging construction and design issues. The department considers that in response to the steeply sloping land of the site, the insertion of new apartments into areas that would otherwise present blank walls and relaxation of the basement height restriction of one metre are acceptable design solutions, subject to merit assessment against necessary performance criteria. In this regard, the design of the development will be tailored to address the specific constraints of the site and this will ensure the best development outcome.

The orientation of the Stage 1 building and slope of the land represent significant challenges in achieving the solar access requirements of the RFDC. The department considers that notwithstanding solar access issues, new apartments at lower levels are acceptable as an overall acceptable amenity outcome is achieved and an appropriate built form design is delivered. Given the site constraints the department considers that there is reasonable justification for flexibility to be applied to the concept plan solar access requirements where other amenity based performance criteria can be met.

The department is satisfied that the extension of basement car parking envelopes is acceptable as the development would continue to meet the 25% deep soil area RFDC rule of thumb and sufficient landscaping can be provided within central courtyard areas and along the north/south pedestrian links. The expansion of the Stage 1 building basement level would not adversely reduce the deep soil planting area for street trees and is therefore considered acceptable.

The re-ordering of the construction staging schedule and timing of the delivery of the contiguous open space would improve the efficiency of the demolition and construction process. The delay of the delivery of the Nancarrow Avenue road extension to Stage 4 is acceptable subject to the provision of a temporary east/west pedestrian link between the foreshore link and Nancarrow Avenue.

The provision of a six storey building at the corner of Constitution Road and Belmore Street is considered acceptable and would not adversely impact on the overall appreciation of the development in context with the remainder of Constitution Road and existing neighbouring properties.

There were key elements of the modification applications that the department amended or did not support relating to: dwelling yield, additional storeys at lower levels, relaxation of RFDC requirements, deferral of road upgrade works, relaxation of height restrictions, amendment of the timing of community facilities, deferral of the foreshore link to Stage 2, foreshore link staircase design, insertion of dwellings at lower levels and Council approval of service infrastructure/utilities (refer to **Table 1**).

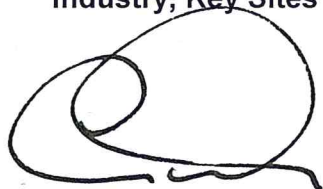
It is recommended that the Planning Assessment Commission consider the report and its findings and approve the modification request under section 75W of the EP&A Act, by signing the attached modifying instrument.

Prepared by Matthew Rosel
Senior Planner

Endorsed by



Daniel Keary
Director
Industry, Key Sites and Social Projects



14.8.14

Chris Wilson
Executive Director
Development Assessment Systems and Approvals

APPENDIX A RELEVANT SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Infrastructure's website as follows:

1. Modification Applications

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6240
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6257

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6240
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6257

3. Proponent's Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6240
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6257

APPENDIX B CONSIDERATION OF SEPP65 AND RFDC

State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65)

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

<i>Key Principles of SEPP 65</i>	<i>Department Response</i>
Principle 1: Context	The modifications to the concept plan and Stage 1 project application are not considered to significantly alter the development's relationship to its context as outlined in Section 5 .
Principle 2: Scale	The modifications to the concept plan and Stage 1 project application result in minor increases in scale by the insertion of additional storeys at lower levels. The department has recommended FEARs to ensure that the increases are restricted to 1 storey and to agreed locations on steeply sloping land. These are outlined in Section 5.4 .
Principle 3: Built Form	It is considered that the modifications, subject to the amendments recommended within this report, will provide an appropriate built form outcome as outlined in Sections 5.3 and 5.4 of this report. The FEARs and conditions of the original approvals together with the new and amended FEARs and conditions ensure a high quality architectural design of future buildings.
Principle 4: Density	The PAC did not impose any restrictions limiting the density of the development as discussed in Section 5.1 . The modified proposal proposes the provision of smaller dwelling sizes and an increase in the proportion of 1 bedroom dwellings, which results in a revised indicative dwelling yield of 2,009 across the concept plan site. The department considers that the FEARs and conditions will ensure that the development is of an acceptable overall design and impact. The department has undertaken a detailed assessment of density in Section 5.1 of this report.
Principle 5: Resource, Energy and Water Efficiency	As outlined in Section 5.5 of this report, the site orientation and topography make it difficult to achieve good levels of solar access into the development. Apartments, however, will provide extensive glazing to maximise access to daylight and cross ventilation to minimise the need for air-conditioning. The development will also comply with BASIX in relation to resource, energy and water efficiency.
Principle 6: Landscape	The modified foreshore link design provides for an increase in functional/usable open space and represents a significant improvement to the overall design appearance and usability of the public domain. The department has recommended FEARs that ensure that sufficient deep soil areas are provided throughout the site. The department has undertaken a detailed assessment of landscaping impacts in Section 5.3 and 5.6 .
Principle 7: Amenity	The department has assessed the proposal in terms of solar access, cross ventilation and privacy. Noting the constraints

	of the site, the department is satisfied that additional apartments provided at lower levels will achieve a satisfactory level of amenity as outlined in Section 5.4 . More detailed consideration of amenity will be undertaken in the assessment of future applications.
Principle 8: Safety and Security	It is considered that the modification would not jeopardise the provision of passive surveillance of public areas and an appropriate level of activation will be achieved.
Principle 9: Social Dimensions and Housing Affordability	The modified proposal provides for a mix of apartment types which would encourage a diverse social mix within the area. Adaptable housing will also be provided in accordance with Council's DCP which requires 10% of dwellings to be designed as adaptable dwellings.
Principle 10: Aesthetics	The modified proposal includes amendments to the external appearance of the Stage 1 building. The resulting building is considered to be appropriately articulated and includes a palette of materials and finishes that will complement the existing and emerging character. Existing and recommended FEARs and conditions ensure that the overall development is of a high standard of design and appearance.

Residential Flat Design Code (the Code)

The Residential Flat Design Code (the Code) is closely linked to the principles of SEPP 65. The Code sets out a number of "rules of thumb" which detail prescriptive standards for residential flat development that would ensure the development complies with the intent of the Code.

An assessment has been undertaken of the Stage 1 project application.

Residential Flat Design Code Compliance			
	RFDC requirement	Proposed	Complies?
Part 1 Local Context			
Building Depth	Max 18m	Max 21m In accordance with the project approval (as amended by condition B2)	NO Acceptable on merit
Building Separation (habitable rooms & balconies)	<ul style="list-style-type: none"> Up to 4 storeys :12m between habitable rooms/balconies Five to 8 stories: 18m 9 stories and above: 24m 	18-20 metres except in two locations. Building separation distances in accordance with project approval (as amended by condition B2)	NO Acceptable on merit
Street Setbacks	Compatible with desired streetscape character	Setbacks in accordance with the project approval (as amended by condition B2)	YES
Part 2 Site Design			
Deep Soil Landscaping	Min 25% of open space	Min 25% of open space	YES
Communal Open Space	25-30% or if this is not achieved increased private open space and / or in a contribution to	Approximately 1,100m ² (13% of site). In accordance with the project approval (as	NO Acceptable on merit and as the development will

	public open space	amended by condition B2)	also provide Section 94 contributions for open space
Part 3 Building Design			
Solar Access	70% of living rooms & private open space to achieve 2 hours solar between 9am-3pm on 21 June	Approximately 52.4% of units will receive 2 hours of solar access to living rooms/bedrooms.	NO Acceptable on merit given the site constraints (see Section 5.5)
Single aspect units	Limit those with southerly aspect to no more than 10%	There are no due south facing single aspect apartments. However, 20% of units are single aspect with south easterly or south westerly aspect	NO Acceptable on merit given the site's orientation and water views to the south
Single aspect units - distance from window	Max 8m	Maximum 11m	NO Acceptable on merit given the floor space greater than 8 metres from a window is generally non-living space (eg. bathrooms)
Cross ventilation	Min 60% of units	48.4% of apartments are capable of being cross ventilated. However, based upon the wind conditions in the vicinity of the site, up to 60% of apartments are capable of being well ventilated.	YES Acceptable on merit, based on wind exposure and design of the building (see Section 5.5 and 5.9).
Max No. of units off a circulation core	Max 8 units	8 units	YES
Accessible Storage facilities	One bedroom= 6m ² Two bedroom= 8m ² Three bedroom = 10m ² exclusive of wardrobes	Storage is provided within apartments	YES Acceptable sufficient space for storage is provided within apartments
Apartment Size (min)	1 bedroom = 50m ² - 63.4m ² 2 bedroom= 70m ² -121m ² 3 bedroom = 95m ² -124m ²	1 bedroom = 55m ² - 60m ² 2 bedroom = 83m ² - 88m ² 3 bedroom = 110m ² - 115m ²	YES
Balcony Depth	Min 2m	2m or greater	YES
Floor to ceiling heights	≥2.7m	Ground floor 2.9-3.5m – all other floors 2.7m	YES

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
