


## Shepherds Bay S75W Application Response to DPE's Environmental Assessment

Submitted to the NSW Planning Assessment Commission  
On Behalf of Holdmark

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## Report Revision History

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This document is preliminary unless approved by a Director of City Plan Strategy & Development

### CERTIFICATION

This report has been authorised by City Plan Strategy & Development, with input from a number of other expert consultants, on behalf of the Client. The accuracy of the information contained herein is to the best of our knowledge not false or misleading. The comments have been based upon information and facts that were correct at the time of writing this report.

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# Table of Contents

<b>1. Executive Summary</b> .....	<b>5</b>
1.1 Introduction.....	5
1.2 Stage A.....	5
1.3 Stage 2/3.....	6
1.4 Other Matters.....	6
1.5 Conclusion.....	6
<b>2. Proposal Chronology</b> .....	<b>7</b>
<b>3. DPE's recommendations for Stage 2 &amp; 3</b> .....	<b>8</b>
<b>4. Stage A Building Envelope</b> .....	<b>9</b>
4.1 PAC's original consideration.....	9
4.2 Council's submission .....	9
4.3 Design Excellence to vary controls .....	11
4.4 Planning principle: Veloshin v Randwick Council.....	12
4.5 Planning principle: Compatibility with context .....	14
4.6 Rhodes as a precedent .....	16
4.7 Strategic Justification (dwelling and population projections).....	17
4.8 Project feasibility.....	18
4.9 Ability to achieve Design Excellence.....	19
4.10 Council's reconsideration of 20 storeys.....	19
4.11 Benefits arising from current design.....	20
4.12 Less GFA in DPE's 15 storey scheme than Concept Approval Scheme .....	20
4.13 VPA offers for Stage A in relation to either a 20 or 24 storey scheme.....	20
<b>5. Density/Dwelling Cap &amp; Parking Cap</b> .....	<b>22</b>
<b>6. Conclusion</b> .....	<b>23</b>
6.1 Stage 2/3 .....	23
6.2 Stage A.....	23

## Figures

Figure 1: Perspective image of proposed 24-storey scheme in context (Source: Cox - Kennedy).....	5
Figure 2: Extract from page 9 of Design Excellence Competition jury report (Source: CPSD) .....	9
Figure 3: Extract from page 10 of Design Excellence Competition jury report (Source: CPSD) .....	10
Figure 4: Extract from page 11 of Design Excellence Competition jury report (Source: CPSD) .....	10

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Figure 5: Extract of proposed view image demonstrating proposed 24 storey scheme in the context of Rhodes and the Parramatta River (Source: Cox Richardson Architects) ..... 10

Figure 6: Extract of DPE's Design Excellence guidelines (Source: DPE, page 4) ..... 11

Figure 7: Extract from page 9 of Design Excellence Competition jury report (Source: CPSD) ..... 12

Figure 8: Northern view catchment capturing Stage A site, Rhodes, as well as a Top Ryde (Source: Cox Richardson Architects)..... 16

Figure 9: Indicative viewing angle (Source: Google Earth) ..... 17

Figure 10: Extract from Draft Northern District Plan demonstrating housing structure projections (Source: Draft Northern District Plan, page 79) ..... 18

Figure 11: Comparison between 2005 metro targets & actual approvals (Source: 'Missing the Mark', Macro Plan Dimasi 2015, page 9)..... 18

## Appendices

Appendix	Document	Prepared by
1	Minutes of meeting dated 24 November 2015	City of Ryde Council
2	Detailed response to draft conditions	CPSD
3	Stage A chronology	CPSD
4	Council request to relocate Community Facility	City of Ryde Council
5	Correspondence from Ryde Council dated 9 November 2016	Ryde Council
6	Heritage Council of NSW submission to DPE	Heritage Council of NSW
7	Design Excellence Competition Jury Report	CPSD
8	View loss assessment	Richard Lamb & Associates
9	Solar access analysis	Cox - Kennedy Associates
10	15 storey scheme feasibility analysis	AEC group
11	DPE scheme vs Approved scheme GFA analysis	Cox - Kennedy Associates
12	Stage A and Stage 2/3 VPA Offers	Holdmark
13	Design Integrity Panel minutes and 24 storey scheme endorsement	CPSD

# 1. Executive Summary

## 1.1 Introduction

Holdmark and its project team consulted extensively with Ryde Council during the preparation and assessment of the subject application. As part of preparing the application, Holdmark adopted Council's requests to relocate the Community Facility from Stage 2/3 to Stage 8/9.

The Application in respect of Stage A is the result of undertaking the Design Excellence Competition required pursuant to Condition 1 of Schedule 3 of the current Concept Plan Consent issued by the PAC. The competition winner was selected by an independent jury and the final building design submitted in support of the 75W Application was approved by a Design Integrity Panel comprising two of the original three judges (the third excused herself due to other work commitments).

## 1.2 Stage A

Prior to and after submission of the application to the NSW Department of Planning & Environment (DPE), Holdmark was of the understanding that Council was generally supportive of the proposed 24-storey scheme (see **Figure 1** below) for Stage A as well as deleting Stage A from the existing dwelling and parking caps (refer to minutes of Holdmark/Council meeting held on 24th November 2015 - **Appendix 1**). As such, Holdmark was surprised after reviewing Council's second (undated) submission to DPE in July 2016 in which it suggests the 20 storey Design Excellence Competition scheme could be adopted by DPE, that Stage A should remain subject to parking and dwelling caps, and that the Community Facility should be included as part of Stage A.



Figure 1: Perspective image of proposed 24-storey scheme in context (Source: Cox - Kennedy)

Holdmark and its project team support the DPE view that the Stage A site functions as a 'gateway' to the Ryde LGA and the future building on that site should be a landmark for the broader locality, including the adjacent river. We're of the understanding DPE and the PAC has a similar view given similar references in DPE's assessment of the original Concept Application and PAC's requirement for a Design Excellence Competition for Stage A. Accordingly the proposal currently before the PAC is the subject of careful architectural, urban design, commercial and social analysis to achieve these attributes. The current scheme was also the unanimous winner of the Design Excellence Competition, whereby such attributes formed part of the jury's assessment criteria.

***The PAC is therefore encouraged to adopt the 24-storey Design Excellence scheme.***

If the PAC concludes, however, that it cannot support the 24-storey building as per the 75W application, it is requested to consider a building displaying the same design excellence at between 20 and 24 storeys. In this regard, it is important to note that:

- Below 20 storeys, a building displaying the same design excellence becomes unviable. An independent feasibility study for a 15-level building (as recommended by the DPE) displaying the same design excellence was undertaken and concluded that as the return on cost was only 9.55% it was commercially unviable, could not obtain financing and would therefore never be built.
- Public benefits offered by the proponent to Ryde Council for the 24-storey building reduce in value as the height diminishes. At 20 levels, no monetary contributions can be made as the commercial feasibility shows the project is unable to support any such payments. If the height reduces below 20 levels, the key worker affordable housing offered can no longer be provided.
- Below 20 storeys, many of the design benefits associated with the Design Excellence scheme are likely to be lost.

In addition, if the PAC determines that the height should be reduced to 15 storeys, the result will be that:

- There is no ability to create a building displaying design excellence.
- The GFA would be less than is currently provided by the existing approved envelopes for the site.

### 1.3 Stage 2/3

It is noted that DPE supports the 75W application in respect of the requested amendments to Stage 2/3. It is further noted that Ryde Council also supports these amendments. Accordingly, the proponent has no further comments in this regard and urges the PAC to accept the recommendations of the DPE in respect of the Stage 2/3 amendments.

### 1.4 Other Matters

This report also addresses some of the other key issues raised in the DPE EA. Our report reveals that none of the matters raised should materially affect the application as submitted and we provide evidence and justification to support this position in respect of each issue.

### 1.5 Conclusion

Our report concludes that there is a clear justification for the PAC to approve the 75W Application as submitted in respect of both Stage A and Stages 2/3. There is no material detrimental impact on surrounding properties or residents resulting from the amendments and, in fact, many community benefits will result from the implementation of the changes proposed.

Subject to the amendments set out in this report (and **Appendix 2**), the proponent is prepared to accept the conditions of consent as generally proposed by DPE.

## 2. Proposal Chronology

Throughout the project's duration, extensive communication was held between Ryde Council's then General Manager Gail Connolly, Council's senior staff, and Holdmark together with relevant consultants. **Appendix 3** sets out the relevant chronology but the key events are as follows:

- On 5 August 2015, Council approached Holdmark requesting (see **Appendix 4**) that they relocate and upgrade the previously approved community facility from Stage 2 & 3 to Stage 8 & 9. Holdmark subsequently agreed to Council's request and a legal deed was executed between Council and Holdmark on 8 October 2015 setting out the detailed agreement for such relocation and upgrade.
- Holdmark met Gail Connolly and Council's senior staff on 24 November 2015 to discuss the proposed Stage A scheme, including the 24 storey Stage A tower and the exclusion of Stage A from existing parking and dwellings caps. This followed the unanimous selection by an independent jury of a winning entry in the Design Excellence Competition for the site (as required by condition 1 of Schedule 3 of the Concept Approval). The minutes from that meeting confirm that Council proposed and therefore understood the rationale for the cap exclusions, and that they were "enthused" about Stage A's design (refer to minutes of meeting at **Appendix 1**).
- Council's second (undated) submission to DPE in July 2016, issued after Gail Connolly's reassignment to Georges River Council, was unexpected for several reasons. Most obviously, it was the first instance Council had intimated their objection to any Stage A height increase, despite having previously advised they were enthused by the scheme. The submission also advises support for a 20-storey scheme, if any height increase is to be supported by DPE. It was also the first instance that Council suggested relocating the Community Facility to Stage A despite the formal deed of agreement with Holdmark. Similarly, it was at odds with Council's previous advice about excluding Stage A from the parking and dwellings caps.
- Following DPE's draft instrument of approval issued to CPSD for comment on 27 September 2016, Holdmark held further discussions with Council to try and clarify their position since it appeared to be different from previous feedback. Holdmark particularly sought to clarify Council's position regarding the Stage A tower height. Following such meetings, Council has since confirmed in writing (refer to correspondence dated 9 November 2016 - **Appendix 5**) that it would support the successful Design Excellence Competition 20-storey scheme by Cox - Kennedy.

We recommend the PAC to carefully review the itemised chronology at **Appendix 3** as it will greatly assist in understanding the rationales justifying the 75W Application.

### 3. DPE's recommendations for Stage 2 & 3

It is noted that the DPE supports the 75W application in respect of the requested amendments to Stage 2/3. It is further noted that Ryde Council also supports these amendments. In particular, Ryde Council resolved to accept Holdmark's VPA in relation to Stage 2 & 3. In summary, the VPA offers:

- \$3.5m to council for the construction of a Community Facility off site;
- Dedication to Council, for the purposes of affordable key worker housing, 8% of the GFA of any increase in apartment numbers for which consent may be granted in addition to the net 17 additional apartments agreed with Council as part of the revised Community Facility arrangements.

Accordingly, the proponent has no further comments in this regard and urges the PAC to accept the recommendations of the DPE in respect of the Stage 2/3 amendments.



## 4. Stage A Building Envelope

### 4.1 PAC's original consideration

In considering the 24 storey Stage A scheme, DPE's EA report initially considers the PAC's original position in respect of building height for the site (i.e. at Concept Approval in 2013). The report notes that the PAC determined the originally proposed 15 storey scheme as being inconsistent with the existing and emerging character of Shepherds Bay. The PAC determined a maximum 10-storey building height to achieve appropriate transition with surrounding built form and the foreshore, as well as to reduce overshadowing.

DPE's assessment of the original Concept Application viewed the site as providing a 'gateway' function, and being somewhat 'stand-alone' in nature. This now has been repeated in the latest DPE assessment. We contend that adopting 'transitioning' outcomes for such sites is inconsistent with their opportunities, particularly their potential public benefits. In relation to overshadowing, as has been demonstrated in the current application, the slender nature of the proposed 24 storey scheme minimises impact to the foreshore and any adjoining private allotments. Specifically, all adjoining allotments achieve solar access as prescribed by the Ryde Development Control Plan 2014.

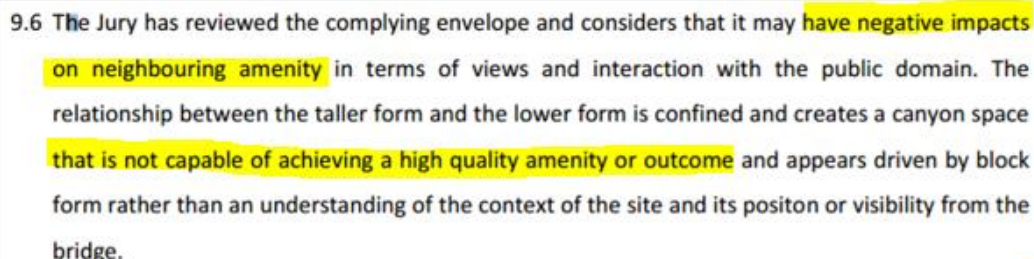
Moreover, the locality's built form character has further developed since 2013 and it has now become very apparent that a landmark tower on Stage A is a very appropriate urban design outcome. It is also apparent that the precinct is in need of day-to-day retail services and a typical urban feature, such as a plaza, to provide it with a sense of identity and a community "heart". The proposed 24-storey scheme provides both of these, but they are closely linked, from a viability point of view, to the proposed gross floor area. Any reduction of the scheme as recommended by DPE, from a viability point of view, inclusive of design excellence features, renders the proposal commercially unviable.

It should also be noted that the footprint of the currently approved envelope effectively covers most of the site, resulting in a squat, fat building with negligible ground plane amenity. This is in stark contrast to the tall, slender tower design now proposed, providing excellent ground plane amenity.

### 4.2 Council's submission

DPE's EA summarises Council's objection to Stage A's height. It references Council's views that the proposed 24 storey scheme would be highly visible and would visually dominate the surrounding area and adjacent heritage listed bridge. The EA notes Council's visual references to Blues Point Tower and Horizon Tower.

As originally stated by DPE however, the site is a 'gateway' and as such is intended to be visible and be a feature of the surrounding visual catchment. In considering the entries to the Design Excellence Competition, the Design Excellence Jury specifically referred to these outcomes as a positive. The jury also noted that it was not **possible to achieve design excellence with the currently approved envelopes** - refer to the following extracts from the Jury report:



9.6 The Jury has reviewed the complying envelope and considers that it may have negative impacts on neighbouring amenity in terms of views and interaction with the public domain. The relationship between the taller form and the lower form is confined and creates a canyon space that is not capable of achieving a high quality amenity or outcome and appears driven by block form rather than an understanding of the context of the site and its position or visibility from the bridge.

Figure 2: Extract from page 9 of Design Excellence Competition jury report (Source: CPSD)

9.8 On this basis the Jury has not awarded a winner in the conforming category as the envelope itself is not considered to enable the achievement of Design Excellence.

Figure 3: Extract from page 10 of Design Excellence Competition jury report (Source: CPSD)

9.13 The Jury considers that the increased height of this scheme is considered appropriate when accompanied by the provision of the proposed public square and in relation to the surrounding area. While much of the development in Meadowbank is of the horizontal 6 to 8 storey built form, this needs to be offset by at least one vertical tower as has happened across the river at Rhodes. To have this vertical building also related to the linear form of the bridge will provide a good urban design solution.

Figure 4: Extract from page 11 of Design Excellence Competition jury report (Source: CPSD)

References to Blues Point Tower and the like (as suggested by DPE) are not contextually comparable. That is, a key urban design principle for the Stage A site (as agreed by the Design Excellence Competition jury) was to adopt a form relating to similar towers in Rhodes, thereby providing a landmark role for commuters along either the river or the Ryde Bridge, as depicted in the image below.



Figure 5: Extract of proposed view image demonstrating proposed 24 storey scheme in the context of Rhodes and the Parramatta River (Source: Cox Richardson Architects)

In relation to potential heritage impacts, we note that the Heritage Council of NSW did not object to the 24 storey Stage A scheme. Their submission makes specific reference to potential impacts to the heritage listed Ryde Bridge, as noted below and in **Appendix 6**.

The Stage A site is located adjacent to a State heritage item, Meadowbank Rail Bridge over Parramatta River (SHR No. 1546). The key relationship between the Parramatta River and Meadowbank Rail Bridge will remain, although the proposed amendment will affect the broader setting of the bridge. It is considered that the proposal is unlikely to have an unacceptable additional visual impact on the Meadowbank Rail Bridge as several tall multi-storey apartment buildings are already located within the setting of the Bridge.

Figure 5: Extract from Heritage Council of NSW submissions from DPE (Source: Heritage Council of NSW)

### 4.3 Design Excellence to vary controls

DPE's EA states that the proposed 24 storey scheme cannot be supported because a Design Excellence Process does not warrant variations to existing statutory planning controls, which in this case is the 10-storey height limit established during the Concept Application's original determination by PAC. However, upon establishing a reduced building height of 10-storeys, the PAC also required a Design Excellence Competition for the Stage A site, as a condition of MP09\_216, clearly recognising its 'gateway' location. We agree a design competition on the site does not in and of itself allow for increased height. It does, however, create a strong urban design argument which concludes that the extra height is appropriate in its context. Again, we emphasise the Jury's conclusion that the approved envelope cannot "*enable the achievement of Design Excellence*".

The provisions of Section 75W of the Environmental Planning & Assessment Act, 1979, together with the prescribed design competition have resulted in the modification of the Concept Approval before the PAC. We submit that the proper processes have been followed exactly by the proponent and that the extra height, located in a slim tower sited on the property to create a sheltered environment for the new public plaza, is fully justified in this instance.

Whilst development feasibility does not form part of Section 79C of the EP&A Act, it does form part of the assessment criteria for Design Excellence Competitions (see extract below of DPE's Design Excellence Guidelines). As can be found in the Design Excellence Competition Jury Report (**Appendix 7**), none of the "conforming schemes" submitted as part of the Design Excellence Competition where commercially viable; with feasibility ranging from -4.32% to 4.71%. As such, to satisfy one of the Design Excellence criterion, the proposal must vary the controls.

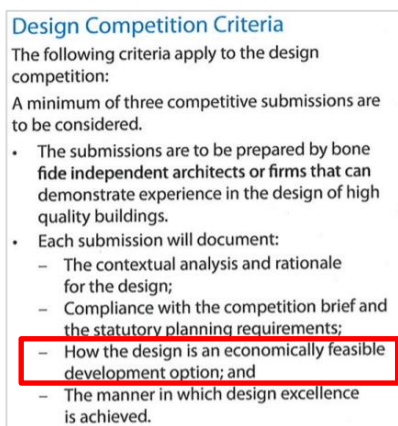


Figure 6: Extract of DPE's Design Excellence guidelines (Source: DPE, page 4)

DPE suggests that the Design Excellence Competition is not a means to vary statutory planning controls because it does not represent a "town planning assessment". We disagree, in as much as the PAC, in requiring a Design Excellence Competition for the Stage A site by way of a condition in the original Concept Approval MP09\_216, acknowledged that a range of built form outcomes could potentially be appropriate for the site, subject to those key urban design principles and opportunities determined during the application's assessment, being satisfied. Those principles include providing a 'gateway' function. Satisfying these principles and opportunities is consistent with town planning assessment outcomes determined as part of the original application's assessment. These same key principles are met by the 24-storey scheme and, with consideration of other factors, the proposal would clearly satisfy a town planning assessment.

The design brief for the competition (prepared in consultation with and approved by the NSW Government Architect's Office - to which Ryde Council had delegated this responsibility)

requested three (3) entrants to provide a complying scheme and, should they choose, a non-complying scheme. All chose to do both.

As stated above, the independent jury for the Design Excellence Competition unanimously agreed that the envelope originally approved by PAC did not represent an envelope which would "enable the achievement of Design Excellence". In addition, having introduced a dwelling cap as part of MOD 2, the number of dwellings now remaining in the Concept Approval was sixty-two (62). A sixty-two (62) dwelling 10 storey building became the 'complying scheme' (we note Council suggests only 61 dwellings remain). The Jury's analysis of the entries, and particularly that from Cox - Kennedy, was that non-conforming schemes showed the required design excellence and delivered much greater public benefits, such as a publicly accessible plaza, a gateway function, and less view loss.

The brief was endorsed by the NSW Government Architect, Olivia Hyde on 11 June 2015.

#### The Conforming Scheme

9.4 The Jury, through review of all the conforming proposals, formed the unanimous view that the current envelope that applies to the site alongside the restriction on dwelling numbers (62 dwellings) would deliver a lesser design solution that would not achieve the best response to the contextual and amenity issues facing the site. The Jury recognises that this site is unique, in that it is an island site isolated by vehicle movements and roundabouts which result in high vehicle speeds and road noise. This constraint severely impacts on the proximity of the site to the waterfront and its setting near the river.

Figure 7: Extract from page 9 of Design Excellence Competition jury report (Source: CPSD)

#### 4.4 Planning principle: *Veloshin v Randwick Council*

The EA report references the Planning Principle for the assessment of building height and bulk established in *Veloshin v Randwick Council* [2007] NSWLEC 428. It relies on this principle to inform the view that a 24-storey scheme is excessive. We also review the proposal against the principle and conclude that it would be acceptable. Our review is provided below:

- *The appropriateness of a proposal's height and bulk is most usefully assessed against planning controls related to these attributes, such as maximum height, floor space ratio, site coverage and setbacks. The questions to be asked are:*

*Are the impacts consistent with impacts that may be reasonably expected under the controls? (...for non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified).*

**Response:** The proposal does not comply with the height control specified in the original Concept Approval MP09\_216. That is, the current control is for a maximum 10 storey height limit; the proposal is for a maximum of 24 storeys.

The non-compliance is largely a result of concentrating most of the building envelope to the east of the Stage A site in a tall, slender tower so a publicly accessible plaza could be provided as part of the scheme (on the western boundary). Specifically, the proposed plaza has access to more sunlight, is larger in size (being approximately 30 - 40%% of the entire site area), and can subsequently cater for more activities such as community markets and the like.

Perhaps most importantly, the proposed scheme reduces view loss for existing dwellings immediately to the north of the Stage A site (29 Porter Street). A view loss assessment conducted by Richard Lamb & Associates (provided at **Appendix 8**) confirms this outcome.

The shadow impacts from the proposed scheme are consistent with those from the building envelopes approved in the original Concept Approval. Despite the additional height, only five (5) additional dwellings will be affected by shadowing from the proposed scheme. The additional dwellings are only affected from 2.30pm onwards at June 21. Their access to sunlight therefore complies with the solar access provisions (i.e. 3 hours at June 21) prescribed by the Ryde Development Control Plan 2014. Reference can be made to the solar access comparison analysis prepared by Cox - Kennedy at **Appendix 9** for further information.

DPE's EA acknowledges that traffic impacts associated with the proposed 24 storey scheme are similar to those identified as part of the Concept Application. The traffic generation between the proposed 24 - storey scheme is in fact less than what was determined for the 10-storey scheme. This is because RMS's traffic generation rates have been revised down since the original Concept Application was approved. This aside, the number of parking spaces proposed for the entire precinct, including the 24 storey Stage A scheme is only marginally greater (i.e. 3,084) than the current parking cap for the precinct (i.e. 2,976). Given the increase is minor, associated traffic impacts would be consistent.

- *How does the proposal's height and bulk relate to the height and bulk desired under relevant controls?*
- *Where the planning controls are aimed at preserving the existing character of an area, additional questions to be asked are:*
  - *Does the area have a predominant existing character and are the planning controls likely to maintain it?*
  - *Does the proposal fit into the existing character of the area?*

**Response:** The Concept Approval controls were not aimed at preserving the existing character of an area. This is because the Concept Approval sought to radically change the character of the area from industrial to high density residential. The proposal is consistent with this transitional character.

- *Where the planning controls are aimed at creating a new character, the existing character is of less relevance. The controls then indicate the nature of the new character desired. The question to be asked is:*
  - *Is the proposal consistent with the bulk and character intended by the planning controls?*

**Response:** The Concept Approval created in its entirety a change in character of Shepherds Bay from industrial uses to high density residential. In the Sydney Morning Herald's recently published article (18 August 2016) of the most desirable suburbs, Meadowbank was ranked 54th out of 555 suburbs, with outstanding ratings for ferries, rail, waterviews, shops, proximity to employment and schools,

The proposal is consistent with the concept of delivering a scheme which captures the site's 'gateway' location, acts as a landmark, demonstrates design excellence and delivers many public benefits including a multi-purpose sun filled plaza. As such, the proposal is consistent with the character intended by the existing planning controls.

- *Where there is an absence of planning controls related to bulk and character, the assessment of a proposal should be based on whether the planning intent for the area appears to be the preservation of the existing character or the creation of a new one. In cases where even this question cannot be answered, the reliance on subjective opinion cannot be avoided. The question then is:*
  - *Does the proposal look appropriate in its context?*

**Response:** The planning controls established in the Concept Approval established a new dense urban residential character with buildings of varying scale and height. The subject proposal is consistent with this and delivers to the precinct a high-quality outcome with appropriate built form.

## 4.5 Planning principle: Compatibility with context

Whilst the EA references "Veloshin" it does not address other perhaps equally relevant planning principles.

In *Project Venture Development v Pittwater Council [2005] NSWLEC 191*, then Senior Commissioner Roseth developed a planning principle to assist with determining a proposal's compatibility with urban context. Below is an assessment of the proposed 24-storey scheme against this principle.

- *There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.*

**Comment:** As allowed for in the following point of this principle, any building on the Stage A site is not required to be the 'same' scale as other buildings whether in form, scale, density or appearance to be harmonious with the established character of the area.

Whilst the proposal includes a 24-storey tower, its seven (7) storey podium component relates effectively to the surrounding built form of between four (4) and eight (8) storeys. Excluding the proposed publicly accessible plaza, the proposal adopts setbacks of between 3.9m - 6.0m, and generally achieves strong streetscape definition. This would be generally consistent with existing and future development in the Shepherds Bay precinct.

Given the above, the proposal achieves the appropriate degree of harmony between the site's 'gateway' or 'landmark' status, and the surrounding built form.

- *It should be noted that compatibility between proposed and existing is not always desirable. There are situations where extreme differences in scale and appearance produce great urban design involving landmark buildings. There are situations where the planning controls envisage a change of character, in which case compatibility with the future character is more appropriate than with the existing. Finally, there are urban environments that are so unattractive that it is best not to reproduce them.*

**Comment:** In the original Concept Application, the DPE's assessment of the original application, and PAC's determination of the same application, the Stage A site was always considered to provide an opportunity for a 'gateway' or landmark development. The proponent has fully embraced this opportunity. The design excellence competition further enhanced the opportunity for such a landmark building. Therefore, in accordance with this principle, the Stage A site warrants different built form to that of the remainder of the Shepherds Bay precinct, and in so doing, it does not render such a proposal as out of character with the area.

- *Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.*
  - *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
  - *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

As has been demonstrated earlier, the proposal's impact's in terms of views, overshadowing and traffic generation are acceptable. In the case of views, the 24-storey scheme results in less view loss compared to the envelopes provided for in the Concept Approval MP09\_216. All immediately adjoining developable allotments are fully constructed. The proposal would therefore not have any impacts on their development potential. If in the long term they were to be redeveloped with even higher building envelopes, the generous widths of Church Street, Parsonage Street and Wells Street should allow for typical amenity related controls (e.g. solar access, views, ventilation) to be satisfied.

It had been demonstrated earlier that the proposal achieves the appropriate degree of harmony with buildings around it and the character of the street, considering its 'gateway' status.

- *The physical impacts, such as noise, overlooking, overshadowing and constraining development potential, can be assessed with relative objectivity. In contrast, to decide whether or not a new building appears to be in harmony with its surroundings is a more subjective task. Analysing the existing context and then testing the proposal against it can, however, reduce the degree of subjectivity.*
- **Comment:** The proposal's physical impacts have been considered earlier in this correspondence, and were found to be acceptable. The current 24-storey scheme has been the subject of extensive contextual analysis. Key stages during this analysis include the development and determination of the original Concept Application, the Design Excellence Competition, and the reviews by the Design Integrity Panel. At each stage it was recognised that the Stage A site provide an opportunity for a 'gateway' or landmark' development, should consider existing and emerging development in Rhodes, as well as consider existing built form in the Shepherds Bay precinct. Some additional opportunities determined during the Design Excellence Competition include celebrating the locality's previous industrial land use, demonstrating appreciation of the heritage listed Ryde Bridge, and enhancing connectivity with the nearby foreshore.
- *For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal's assessment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. In special areas, such as conservation areas, architectural style and materials are also contributors to character.*
- **Comment:** As indicated above, the site and locality character has been extensively analysed. The proposed building has been specifically chosen by the Design Excellence Panel due to its architectural response to its site, and its relationship to the bridge as well as the industrial character of the area.
- *Buildings do not have to be the same height to be compatible. Where there are significant differences in height, it is easier to achieve compatibility when the change is gradual rather than abrupt. The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape.*

**Comment:** The proposed building is greater in height than others in the Concept Approval but that does not render it incompatible. As shown in Figure 3 and 4 of this report, tall buildings become markers and are characteristic of this locality.

- *Front setbacks and the way they are treated are an important element of urban character. Where there is a uniform building line, even small differences can destroy the unity. Setbacks from side boundaries determine the rhythm of building and void. While it may not be possible to reproduce the rhythm exactly, new development should strive to reflect it in some way.*

**Comment:** The Shepherds Bay precinct is a relatively new example of urban infill development. It does not include typical front and/or side setbacks. This principle is therefore not applicable.

- *Landscaping is also an important contributor to urban character. In some areas landscape dominates buildings, in others buildings dominate the landscape. Where canopy trees define the character, new developments must provide opportunities for planting canopy trees.*

**Comment:** Whilst landscaping is provided throughout the precinct, it is not a dominant element in the streetscape. This aside, the scheme proposed for Stage A by virtue of its

increased height has allowed for a smaller footprint. This thus allows for the public plaza and landscaping not otherwise achievable in the Concept Approval. This is a positive outcome of the development.

- *Conservation areas are usually selected because they exhibit consistency of scale, style or material. In conservation areas, a higher level of similarity between the proposed and the existing is expected than elsewhere. The similarity may extend to architectural style expressed through roof form, fenestration and materials.*

**Comment:** The subject site is not within a conservation area.

#### 4.6 Rhodes as a precedent

DPE's EA states that it does not accept the application's reference to built form (specifically existing towers) in the Rhodes precinct to support the proposed 24 storey scheme at Stage A. The application does not seek to rely solely on the existing built form throughout Rhodes to justify the proposal. Rather, the application states that given Rhodes inevitably forms part of Stage A's view catchment, it must form part of the consideration process.

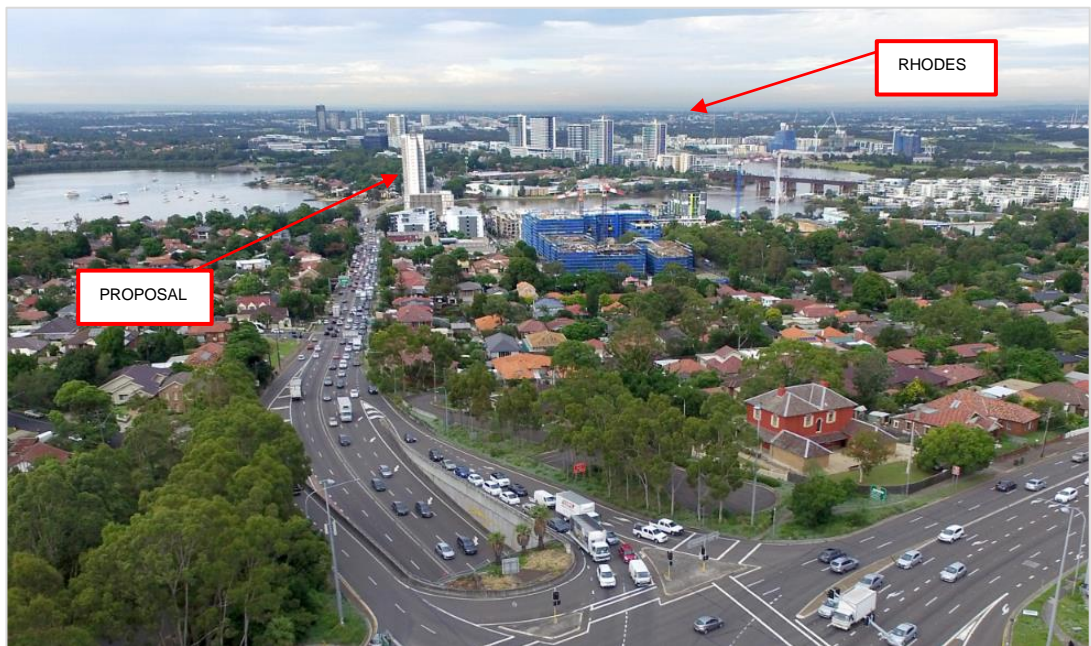


Figure 8: Northern view catchment capturing Stage A site, Rhodes, as well as a Top Ryde (Source: Cox Richardson Architects)

When considering Rhodes and Stage A as part of the same view catchment, combined with the subject site's 'gateway' or landmark role, as well as its slender northern and southern views, the resultant bulk and scale is acceptable.

It is acknowledged that when viewed from the east, the proposal may appear quite wide. However, this is the same width as would have been achieved with the original Concept Approval. Further, this width is from one view only (with the equivalent western view acceptable because it forms part of the renewal area). The western view angle is in fact relatively narrow. The topography on the western side of Church Street slopes in such a manner (both down and up) from the Stage A site such that visibility to Stage A is obscured from many dwellings. Further, most dwellings to the west of Church Street are oriented such that they do not face the proposal directly, but rather the opposite direction.





Figure 9: Indicative viewing angle (Source: Google Earth)

As stated in the EA, it is also acknowledged that the subject site and Shepherds Bay generally is not a Strategic Centre, like Rhodes, which normally warrant tower typologies. However, the proposal would represent a single tower only, in the entire precinct. This would not fundamentally alter the hierarchy of centres as provided by a Plan for Growing Sydney. Given it would not alter the urban hierarchy, and the site provides an opportunity for a 'gateway' or land mark development, we conclude that the 24 - storey scheme is acceptable and appropriate.

#### 4.7 Strategic Justification (dwelling and population projections)

We note the Draft Northern District Plan nominates ongoing population growth for the entire Northern District, totalling 25,950 overall population growth between 2016 - 2021. For the Ryde LGA, it expects at least 7,600 additional dwellings between 2016 - 2021.

The Draft Northern District Plan indicates previous metropolitan plans have consistently under projected demand for 'couple only' and 'single person' households. Therefore, whilst Ryde Council has generally met housing approval targets, those approvals have not reflected emerging trends for housing types.

This 'gap' between housing approvals and actual demand for housing type is confirmed by independent analysis prepared by MacroPlan Dimasi (refer to extract on following page).

Consequently, the proposal's increase in housing supply, and its apartment style form of housing specifically address emerging demographic trends in the Ryde LGA.

All the Greater Sydney Commission's recently released Draft District Plans are also heavily weighted towards generating further affordable housing. Both the modifications proposed to Stage 2, 3 and Stage A are aligned to this outcome given affordable key worker housing is provided in all such stages, if the application is approved as submitted.

Figure 4-5: North District projected household structure 2011 – 2036

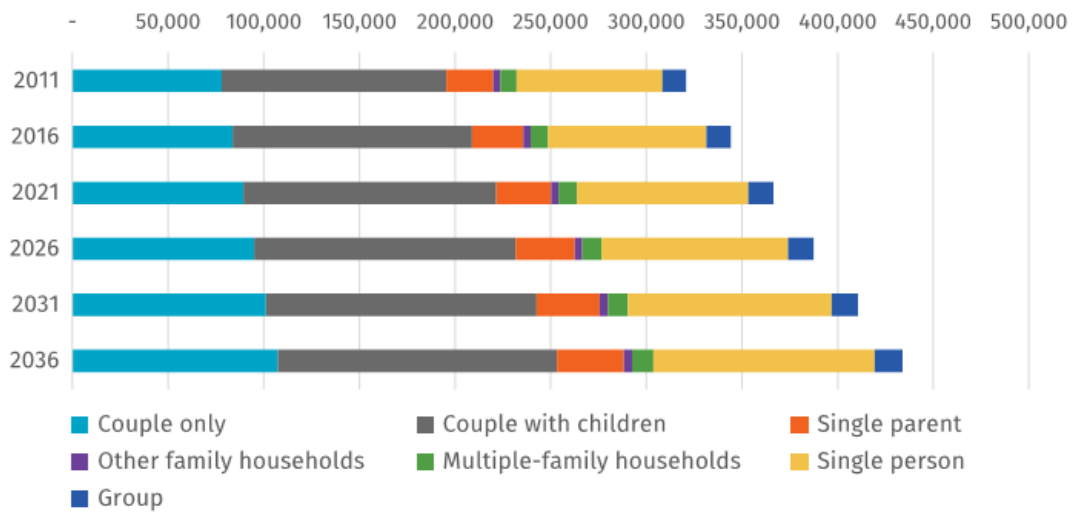


Figure 10: Extract from Draft Northern District Plan demonstrating housing structure projections (Source: Draft Northern District Plan, page 79)

Table 2. Comparison between 2005 metro targets & actual approvals (projected differences)

Regions	LGA Precincts	Annual 2004-2014							Annual 2014-2024			
		Metro 2005 (2004-2031)	Approvals 2005-2014	Housing Target Achieved [%]	Difference between Targets and Approvals	Indicative Housing Need	Actual Surplus / Shortage	Actual Surplus / Shortage [%]	Projected Pop Growth 2014-2024	Projected Indicative Housing Need 2014-2024	Housing Shortage / Surplus	Actual Surplus / Shortage [%]
Lower North Shore	Hunters Hill	44	39	88%	-5	37	2	106%	177	84	-44	47%
	Lane Cove	144	272	188%	128	105	167	259%	546	207	65	132%
	Mosman	22	53	239%	31	107	-54	50%	288	133	-79	40%
	North Sydney	204	258	126%	54	504	-247	51%	963	488	-230	53%
	Ryde	444	473	106%	29	583	-110	81%	2,111	849	-376	56%
	Writtleby	252	137	54%	-115	372	-235	37%	998	410	-273	33%

Figure 11: Comparison between 2005 metro targets & actual approvals (Source: 'Missing the Mark', Macro Plan Dimasi 2015, page 9)

#### 4.8 Project feasibility

DPE's EA provides that financial considerations are not a key assessment criteria for such applications. Whilst not a 'S79C' matter, in cases where design excellence applies, however it is a key consideration given it forms part of the assessment criteria for Design Excellence Competitions as outlined in DPE's own guidelines (refer to **Figure 6** above). This is because as demonstrated in the independent feasibility analysis by AEC Group (at **Appendix 10**) of DPE's recommended 15 storey scheme, only 9.55% project margin would be achieved. This is largely because of the higher specifications (and therefore costs) associated with a scheme which seeks design excellence. With only 15 levels, such extra costs cannot be amortised over a larger structure nor offset by the increased revenues available from higher levels. Given the industry standard for project feasibility is approximately 20%, which is also the general benchmark set by financiers which must be achieved before they will consider providing funding for a project, Holdmark is very unlikely to develop DPE's recommended 15 storey scheme (with design excellence).

Conversely, a conventional (i.e. without design excellence) 15 storey scheme may achieve commercial viability. We therefore conclude that if the PAC seeks design excellence for the site, which both CPSD and Holdmark would agree with, there needs to be further

considerations of the height required to achieve the economic returns necessary to facilitate design excellence.

Alternatively, should the PAC consider the recommendation to approve a 15-storey building, we urge the deletion of the design excellence condition from the Concept Approval, otherwise it is likely that this site will never be redeveloped.

#### 4.9 Ability to achieve Design Excellence

In addition to project feasibility inhibiting design excellence (refer to previous item), discussions with the project architects Cox - Kennedy indicate that from an architectural perspective a design excellence scheme may not be able to be achieved in the 15-storey format recommended by DPE. That is, a fundamental aspect of achieving design excellence in the proposed scheme, as well as capturing the site's 'gateway' status, was to include a tower element of between 20 to 24 storeys. Their design analysis concludes that at least a 20-storey tower is needed to achieve the right 'balance' between providing for a 'landmark' development, but also avoiding excessive building bulk. It was generally concluded that anything less would detract from the tower's slender appearance, and conversely appear 'squat' and bulky.

It is worth noting that the Cox - Kennedy non-conforming scheme for the site was not the tallest of all the proposals received in the Design Excellence Competition.

#### 4.10 Council's reconsideration of 20 storeys

It is worth noting that since DPE initially issued its draft instrument of approval to CPSD on 27 September 2016, Holdmark and CPSD held ongoing discussions with Council's General Manager and senior staff to clarify their position in terms of Stage A's height. Council has since confirmed (see correspondence dated 9 November 2016 at **Appendix 5**) that they would support the original Design Excellence Competition entry (i.e. 20 storeys) by Cox - Kennedy.

If the PAC concludes that it cannot support the 24-storey building as per the 75W application, it is requested to consider a building displaying the same design excellence at between 20 and 24 storeys. In this regard, it is important to note that:

1. Below 20 storeys, a building displaying the same design excellence becomes unviable. An independent feasibility study for a 15-level building (as recommended by the DPE) displaying the same design excellence was undertaken and concluded that as the return on cost was only 9.55% it was commercially unviable, could not obtain financing and would therefore never be built.
2. Public benefits offered by the proponent to Ryde Council for the 24-storey building reduce in value as the height diminishes. At 20 levels, no monetary contributions can be made as the commercial feasibility shows the project is unable to support any such payments. If the height reduces below 20 levels, the key worker affordable housing offered can no longer be provided.
3. Below 20 storeys, many of the design benefits associated with the Design Excellence scheme are likely to be lost.

In addition, if the PAC determines that the height should be reduced to 15 storeys the result will be that:

1. There is no ability to create a building displaying design excellence.
2. The GFA would be less than is currently provided by the existing approved envelopes for the site.

#### 4.11 Benefits arising from current design

Whilst developing a 15-storey building of “standard” design may be financially viable; the proponent seeks PAC support to achieve consent for the Cox-Kennedy Design Excellence scheme. This design not only produces a tall slender tower but it also provides numerous community benefits because of its high-quality design including:

- Sun-filled public plaza which can be utilised for community-oriented activities;
- Much-needed convenience retail (including a supermarket) within easy walking distance of hundreds of residences;
- Public domain improvements including upgrades to roads and pedestrian footpaths surrounding the site;
- Safer pedestrian access to the waterfront;
- A slender, “Gateway” building acting as landmark for the entry to the Ryde municipality and commuters along the Parramatta River;
- Improved overshadowing outcomes compared to the concept approved envelope;
- Improved views from the residences to the north compared to the concept approved envelope;
- Interpretation of the heritage value of the locality’s former industrial land use by re-building the existing industrial “shed”.
- Adopting a steel framework on the façade and roof in recognition of the nearby heritage listed Ryde Bridge.

#### 4.12 Less GFA in DPE's 15 storey scheme than Concept Approval Scheme


An analysis by Cox Kennedy Architects of the 15-storey scheme recommended by DPE concludes that it would result in less gross floor area (GFA) than already allowed for in the Concept Approval scheme (i.e. 16,341m<sup>2</sup> v 16,938m<sup>2</sup>). DPE's recommended scheme is therefore a disadvantage to the proponent. Cox Kennedy's analysis is provided at **Appendix 11**.

More importantly, this outcome confirms that the current design is the result of careful and extensive design and feasibility analysis. We conclude that deleting levels as DPE has recommended does not represent a full and proper consideration of all the necessary components of this proposal.

#### 4.13 VPA offers for Stage A in relation to either a 20 or 24 storey scheme

Extensive negotiation was undertaken by the proponent with Council to develop VPAs which would deliver major benefits to the Ryde community in respect of Stage A. They are however strictly linked to either a 24 or 20+ storey scheme and could not be delivered as part of any 15-storey (or lower) scheme due to a lack of feasibility. The public benefits offered as part of the current Stage A VPA are as follows (see **Appendix 12** for formal VPA from Holdmark to Council):

- If a 20-storey building or more is approved (i.e. same height as or higher than Design Competition), the proponent will commit to providing, as affordable key worker housing, 4% of the GFA comprising levels 16 to 20 inclusive (i.e. 4% of 5 levels @ 668.4sqm of GFA per level = 4% of 3342 sqm GFA);
- If the proposed 24-storey building is approved (providing 2672 sqm of additional GFA above the 20-storey height of the winning scheme in the Design Excellence Competition), Holdmark has offered to provide Council with the sum of \$4.13 million for Community benefits (in addition to the key worker housing set out in previous dot point; and,

- 
- If the height/GFA of the building is reduced, thereby reducing the extra GFA (above 20 storeys) of 2672sqm currently sought, the sum of \$4.13m reduces proportionately. Accordingly, if only 2000sqm of additional GFA (above 20 storeys) was approved, the sum available for Council would be  $\$4.13\text{m} \times (2000/2672) = \$3.09$  million.

## 5. Density/Dwelling Cap & Parking Cap

A dwelling cap is an illogical control as the number of dwellings will be a function of the final mix which is a function of market demand and outcomes sought by SEPP 65 (e.g. if market demands more 3-bedroom apartments, the number of dwellings will decrease without affecting the overall GFA; conversely, if market demands more one-bedroom apartments then the dwelling numbers will increase, without affecting the overall GFA).

Nevertheless, the proponent acknowledges DPE's and the community's reported preference for both a parking and dwelling cap across the entire precinct. The proponent is therefore willing to accept a parking cap which reflects the scheme as submitted, as follows:

- Parking cap - 3084 (24 storey scheme) or 2948 (20 Storey scheme)

As the PAC will be aware, a parking cap is also an effective control on dwelling numbers as there is a direct correlation between the two via Council's DCP controls.

Appropriate parking caps can be calculated and provided for any other number of storeys which the PAC may wish to approve.

## 6. Conclusion

### 6.1 Stage 2/3

It is noted that both DPE and Ryde Council support the proposed modifications to Stage 2 & 3 and provide recommended conditions of approval. Further, Council at its meeting of 25 October 2016 resolved to accept a VPA from Holdmark which relates to the proposed Stage 2 & 3 modifications. As such, the proponent has no further comment in relation to this stage and urges PAC to accept DPE's recommendation as it relates to Stage 2 & 3 (subject to comments on the proposed conditions of consent as set out in **Appendix 2**).

### 6.2 Stage A

**In relation to Stage A, the proponent urges the PAC to modify DPE's recommendations and approve the 24-storey design as submitted.**

The proposed 24-storey scheme is a carefully considered development of the unanimous winner of the related Design Excellence Competition. It has also been subject to rigorous analysis by a Design Integrity Panel post the competition process which included two (2) of the three (3) Design Excellence Competition jury members (refer to Design Integrity Panel meeting minutes at **Appendix 13**).

During the Design Excellence Competition, the jury concluded that design excellence could not be achieved within the envelopes originally approved for Stage A. Further, the jury unanimously decided that the Cox - Kennedy scheme was the winning entry for the purposes of the competition. In summary, it best achieved design excellence as it would capture the site's 'gateway' function, provide significant public benefits in the form of a sun-filled, public plaza as well integration with the foreshore, whilst the scheme also reflected the locality's industrial past. Post the competition process, further public benefits were added in the form of financial contributions plus significant key worker housing provisions as part of a VPA offer to Ryde Council.

It is important to note that all the above-mentioned outcomes are closely linked to the 20+ storey building envelopes for Stage A. Reducing the scheme to 15 storeys, whilst still requiring a design excellence outcome, renders the site commercially unviable. As such, it is likely a design excellence scheme for the Stage A site will not be developed, with the above-mentioned public benefits no longer being available.

Holdmark has already delivered public benefits in the Shepherds Bay development to the benefit of the Ryde community of over \$100 million. The additional benefits being offered as part of this 75W Application are substantial and a further indication of Holdmark's commitment to delivering public benefits to the community.

**In light of the above, it is recommended that the PAC modify DPE's recommendations in relation to Stage A and adopt the 24-storey design excellence scheme.**

Our recommended amendments to the DPE suggested conditions of consent in respect of Stage A are set out in **Appendix 2**.