

APPENDIX B RECOMMENDED MODIFYING INSTRUMENT

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, we approve the modification application referred to in Schedule 1, subject to the condition in Schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

Commission Member

Commission Member

Commission Member

Sydney

2016

SCHEDULE 1

Application Number:

MP09_0216

Proponent:

Holdmark NSW Pty Ltd

The Authority:

Minister for Planning

The Land:

- 41 Belmore Street, Ryde (Lot 1 DP 1072555);
- 116 Bowden Street, Meadowbank (Lot 2 DP 792836);
- 118-122 Bowden Street, Meadowbank (Lot 102, DP 1037638);
- 2 Constitution Road and 7-9 Hamilton Crescent, Ryde (Lot 2, DP 550006 and Lots 1-2, DP 982743);
- 4-6 Constitution Road, Ryde (Lot 1, DP 104280 and Lots 1-2, DP 930574);
- 8-14 Constitution Road, Ryde (Lot 1, DP 713706);
- 16 Constitution Road, Ryde (Lot 3, DP 7130);
- 18 Constitution Road, Ryde (Lots 1-2, DP 810552);
- 6 Nancarrow Avenue, Ryde (Lot 1, DP 322641);
- 8 Nancarrow Avenue, Ryde (Lot 11, DP 7130);
- 10 Nancarrow Avenue, Ryde (Lot 12, DP 7130);
- 12-16 Nancarrow Avenue, Ryde (Lots 13-15, DP 7130);
- 18 Nancarrow Avenue, Ryde (Lot 16, DP 7130);
- 37-53 Nancarrow Avenue, Ryde (Lot 9, DP 19585, Lot 1, DP 122205, Lots 1-7, DP 19585 and Lots 10-17, DP 19585);
- 8 Parsonage Street, Ryde (Lots 13-14 DP 738232, Lot 7, DP 809282, Lot 100, DP 851723 and Lot 15, DP 738232);

- 9-10 Rothesay Avenue, Ryde (Lot 1, DP 703858); and
- 11 Rothesay Avenue, Ryde (Lot 18, DP 7130)

Concept Approval:

Shepherds Bay Concept Plan granted by the Planning Assessment Commission on 6 March 2013

Project:

Mixed use residential, retail and commercial development incorporating:

- building envelopes for 12 buildings incorporating basement level parking;
- Infrastructure works to support the development;
- publically accessible open space and through site links; and
- pedestrian and cycle pathways.

Project:

MP09_0216 MOD2: the modification includes:

- increase in the maximum height of the Stage A building envelope by 5 storeys (from 10 to 15 storeys);
- deletion of the site-wide maximum dwelling yield development cap;
- exclusion of Stage A from the site-wide maximum car parking yield development cap;
- varying increases of the number of storeys contained within Stages 2 and 3 building envelopes and increase in the height of part of the Stage 2 building envelope by 300mm;
- provide a financial contribution to council in lieu of providing an on-site community facility, or alternatively, relocate the community facility from Stage 3 to Stage A and reduce its size by 500m² (from 1,000m² to 500m²);
- deletion of the exception within FEAR 3A that allows the inclusion of an additional storey within buildings on steeply sloping land; and
- provision of affordable housing.

The Concept Plan for MP09_0216 is modified as follows:

**SCHEDULE 2
PART A – ADMINISTRATIVE CONDITIONS**

- (a) Schedule 2 Part A – Terms of Approval A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

Development in Accordance with the Plans and Documentation

- A2. The development shall be undertaken generally in accordance with MP09_0216, as modified by MP09_0216 MOD1, and **MP09 0216 MOD2**:
- the Environmental Assessment dated 7 January 2011 prepared by Robertson + Marks Architects and PLACE Design Group, except where amended by the Preferred Project Report dated July 2012, including all associated documents and reports;
 - the S75W Modification Application dated November 2013 prepared by Robertson + Marks Architects and City Plan Services including all documents and reports, except where amended by the:
 - Response to Submissions report dated 28 March 2014 prepared by City Plan Services; and
 - Proponents Comments in Response to Council's Submission dated 29 April 2014 prepared by City Plan Services.
 - **the S75W Modification Application dated January 2015 prepared by City Plan Services including all documents and reports, except where amended by the:**
 - **Preferred Project Reports dated 3 May 2016 and 13 May 2016 prepared by City Plan Services;**
 - **letter titled Response to Council's Submission dated 26 August 2016 prepared by City Plan Services; and**
 - **response to submissions by TfNSW and RMS prepared by City Plan Services received by the Department on 9 September 2016.**
 - the Draft Statement of Commitments prepared by Robertson + Marks Architects updated on 5 October 2012, except where amended by the Revised Draft Statement of Commitments prepared by Holdmark dated March 2014; and
 - the following drawings:

<i>Drawings Prepared by Robertson + Marks Architects</i>		
<i>Drawing No</i>	<i>Name of Plan</i>	<i>Date</i>
FIGURE 11 REV 2	PREFERRED CONCEPT PLAN	July 2012
PPR 001- D <u>G</u>	MAXIMUM HEIGHT WITH SETBACKS	02/11/13 <u>08/09/16</u>
<u>PPR 002-E</u>	<u>Maximum Number of Storeys Above Ground Level (Finished) Plan</u>	<u>08/09/16</u>
PPR 007-E	INDICATIVE STAGING	09/24/13
S 001/B	SLOPES ON SITE	03/25/2014
FIGURE 14 REV 4 <u>5</u>	STAGE 1 BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	28/06/2012 <u>07/06/16</u>
FIGURE 15 REV 4 <u>5</u>	STAGE 2 <u>4</u> BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	01/18/12 <u>07/06/16</u>
FIGURE 16 REV 4 <u>6</u>	STAGE 3 <u>2</u> BUILDING ENVELOPE CONTROLS	01/18/12

	<u>DIAGRAMS</u>	<u>29/04/16</u>
FIGURE 17 REV <u>4_6</u>	STAGE <u>4_5</u> BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	<u>01/18/12</u> <u>07/06/16</u>
FIGURE 18 REV <u>4_5</u>	STAGE <u>5_A</u> BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	<u>01/18/12</u> <u>10/06/16</u>
FIGURE 19 REV <u>4_6</u>	STAGE <u>6_3</u> BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	<u>01/18/12</u> <u>26/04/16</u>
FIGURE 20 REV <u>4_5</u>	STAGE <u>7_8</u> BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	<u>01/18/12</u> <u>07/06/16</u>
FIGURE 21 REV <u>4_5</u>	STAGE <u>8_6</u> BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	<u>01/18/12</u> <u>07/06/16</u>
FIGURE 22 REV <u>4_7</u>	STAGE 9 BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	<u>01/18/12</u> <u>08/09/16</u>
FIGURE 23 REV <u>4_5</u>	STAGE <u>10_7</u> BUILDING ENVELOPE CONTROLS <u>DIAGRAMS</u>	<u>01/18/12</u> <u>07/06/16</u>
FIGURE 29 REV 2	LANDSCAPE PLAN	July 2012
FIGURE 30 REV 2	VEHICULAR ACCESS AND PUBLIC TRANSPORT PLAN	July 2012
SK01 REV E	PEDESTRIAN & CYCLEWAY ROUTES	18 JUNE 2013
FIGURE 32A REV 2	INDICATIVE ACCESSIBLE CIRCULATION PLAN	July 2012
FIGURE 33 REV 2	INDICATIVE COMMUNITY, RETAIL & / OR COMMERCIAL USES LOCATION MAP	July 2012
FIGURE 50 REV 1	CONCEPT PLAN LANDSCAPE PLAN	28/07/14
PPR 003-5	OPEN SPACE AREA PLAN	11/01/13

except for as modified by the following pursuant to Section 75O(4) of the Act.

- (b) Schedule 2 Part A – Terms of Approval A5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

Maximum Gross Floor Area (GFA)

A5

1. The maximum GFA for commercial, retail or community uses shall not exceed 10,000m²
2. The maximum number of dwellings shall not exceed **2,140**

**SCHEDULE 2
PART B – MODIFICATIONS**

- (c) Schedule 2 Part B – Modification B1B is added by the insertion of the **bold and underlined** words / numbers as follows:

Maximum Building Height of Stage A

B1B The Concept Plan building envelope shall be amended so that a maximum of 15 storeys shall apply to the 24 storey element on Stage A, Church Street site. The following Concept Plan drawings shall be amended to demonstrate compliance with this

modification and shall be submitted to, and approved by, the Secretary within 1 month of the date of this approval.

- a) PPR 001 Maximum Heights with Setbacks;
- b) PPR 002 Maximum Number of Storeys Above Ground Level (Finished) Plan; and
- c) Figure 18 Stage A. Building Envelope Control Diagrams

- (d) Schedule 2 Part B – Modification B3 is deleted by the ~~bold and struck through~~ words / numbers as follows:

~~**Amended Maximum Number of Storeys Above Ground Level (Finished) Plan**~~

~~**B3**~~ The plan entitled ~~Indicative Concept Plan Storeys Plan~~ shall be amended to:

- ~~(a) Change the title to “Maximum Number of Storeys Above Ground Level (Finished) Plan”, and~~

~~The amended plan, demonstrating compliance with these modifications shall be submitted to, and approved by, the Secretary within 1 month of the date of this approval.~~

**SCHEDULE 3
FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

- (e) Schedule 3 – Future Environmental Assessment Requirement 1A is amended by the insertion of the bold and underlined words / numbers and deletion of the ~~bold struck out~~ words/numbers as follows

Dwelling Cap

- 1A. Future Development Applications shall provide for a total number of dwellings up to a maximum of 2,005 2,140 across the Concept Plan site (including Stage 1).

~~Future Development Applications shall include a projected dwelling forecast for each remaining stage demonstrating that the total dwelling numbers will adhere to the dwelling cap.~~

- (f) Schedule 3 – Future Environmental Assessment Requirement 3A is amended by the deletion of the ~~bold struck out~~ words / numbers as follows:

~~**Maximum Storeys on Steeply Sloping Topography**~~

- ~~**3A.**~~ Future Development Applications shall satisfy the 'Maximum Number of Storeys Above Ground Level (Finished) Plan'. ~~An exception to the maximum storey height may be given to buildings within Stages 2, 3 and the south east portion of Stage 4 on steeply sloping topography (being at the locations indicated on drawing S 001/B) where it can be demonstrated that:~~

- ~~a) the overall building height satisfies the maximum permitted RL;~~
- ~~b) no more than 1 additional storey is provided;~~
- ~~c) an acceptable level of amenity can be achieved for any additional apartment(s) provided in accordance with the requirements of Future Environmental Assessment Requirement 21; and~~
- ~~d) the additional storey is required to appropriately activate the ground level.~~

- (g) Schedule 3 – Future Environmental Assessment Requirement 18 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~bold struck out~~ words / numbers as follows:

Community Facilities

18. **The developer shall provide for a community facility via one of the follow two options:**
- i) **The developer shall enter into a Voluntary Planning Agreement with Council for the payment of \$3.5 million in lieu of providing the on-site community space. The payment shall be indexed by Sydney CPI annually from the date of consent of Modification 2 to the Concept Plan (MP09 0216 MOD2); or**
- ii) Any future Development Application/s for ~~the 1000th dwelling~~ **Stage A** shall include, at no cost to Council, the delivery of an appropriate community space within the development, which can be used by Council or members of the community for community purposes and related uses.
- a) The community facility must be a minimum of ~~1,000–500m²~~ in area and be primarily located on ground level. The configuration of floorspace should be designed in consultation with Council or Council nominated community organisation(s).
- b) The primary use of the designated community floor space must be for community uses. A range of other activities, such as private functions, community markets and garage sales, may be undertaken within the community facility provided that they are subsidiary to the core community function.
- c) The designated community floor space must not be used for any other commercial, retail or residential use unless Council decides not to accept the designed floorspace; **and**
- d) The provision of community floorspace is in addition to Council's Section 94 Contributions for the development.
- e) ~~The facility to be delivered is to be located around the contiguous central public open space area in either Stage 2 or 3~~

- (h) Schedule 3 – Future Environmental Assessment Requirement 18A is added by the insertion of the **bold and underlined** words / numbers as follows:

Affordable Housing

18A The developer will dedicate to Council (as key worker housing) 8% of any increase in apartment numbers resulting from this modification application (MP09 0216 MOD 2), for which development consent is eventually granted. The affordable housing calculation excludes dwellings that may be located in place of the relocated community centre, as specified in Holdmark's letter to Council titled Re: Shepherds Bay – Meadowbank Section 96 Application For Stage 2/3 signed by Gavin M Carrier and dated 9 December 2015.

- (i) Schedule 3 – Future Environmental Assessment Requirement 23 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~bold struck out~~ words / numbers as follows:

Car Parking

23. Future Development Applications shall provide on-site car parking in accordance with Council's relevant Development Control Plan up, to a maximum of 2,976 spaces across the Concept Plan site.

Future Development Applications shall provide:

- (a) a car parking rate which relates to the site-wide car parking provision and demonstrates that car parking may be provided for future stages within the total car parking figure of 2,976; and
- (b) a projected car parking forecast for each remaining stage demonstrating that the total car parking provision can be adhered to.

- (j) Schedule 3 – Future Environmental Assessment Requirement 26 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold struck out**~~ words / numbers as follows:

Roads and Maritime Services Requirements

- 26. Future Development Application/s ~~for each stage of development following the first two stages~~ shall include a traffic study which includes figures on the current number of vehicles and pedestrians at the Railway Road pedestrian crossing at Meadowbank Station and at the Constitution Road / Bowden Street intersection. **The traffic study shall be provided for:**
 - a) each stage of development following the first two stages; and**
 - b) any Section 96 application(s) relating to the provision of additional dwellings within Stages 2 and 3 that are a result of approved amendments within modification application MP09_0216 MOD2.**

The traffic study is to be carried out to the RMS's and Council's satisfaction and shall model the impact of the anticipated increase in vehicle and pedestrian traffic for that stage. Where the study reveals that RMS warrants would be met for the provision of signalisation at either of these locations, concept design of the upgrade of the intersection to Council's and RMS's satisfaction is to be included with the Development Application and the works are to be completed by the proponent prior to the issue of first occupation certificate of any building of that stage.

**End of Modification to MP09_0216
(MP09_0216 MOD2)**