



Planning &
Infrastructure

MODIFICATION REQUEST:
Mixed Residential and Retail Development
21 – 35 Treacy Street, Hurstville
Earljest Pty Ltd

Modification MP10_0101 MOD 1



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

September 2012

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1. BACKGROUND

This report relates to a modification request seeking to amend Concept Plan approval MP10_0101, for the construction of a mixed use retail and residential development, with basement car parking at 21-35 Treacy Street, Hurstville.

1.1 Site Description

The site, known as 21 – 35 Treacy Street Hurstville, is located on the southern side of Treacy Street, approximately 15 kilometres south-west of Sydney CBD. The site is located within the Hurstville Local Government Area (**Figure 1**).

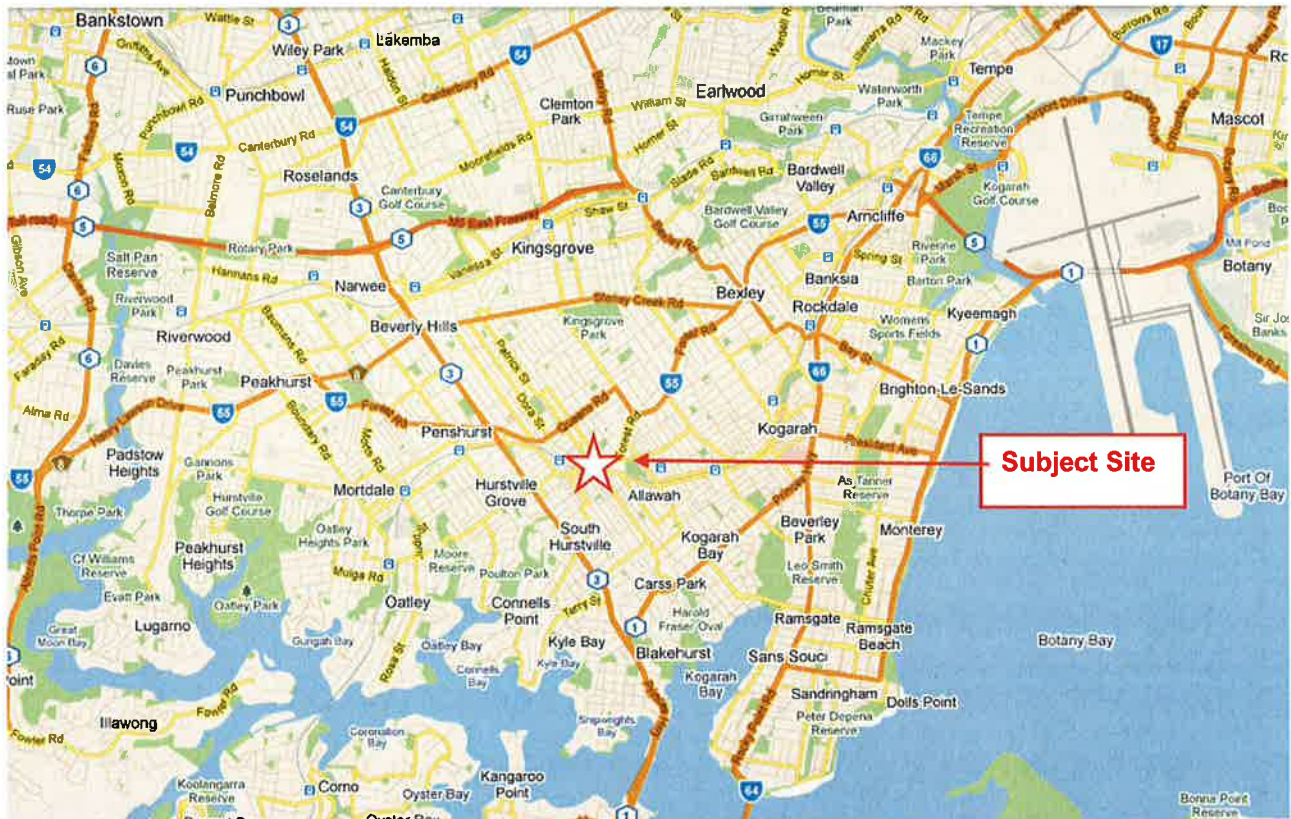


Figure 1: Site Locality – Regional Context

The site is located within the City Centre East precinct and comprises 5 parcels of land, each containing existing or former commercial uses, including:

- No. 21 contains Buber Mechanics (Lot 6 DP 2752);
- Nos. 23 – 29 are currently vacant, however the premises were previously tenanted by Ferguson's Toyota (Lots 1 – 5 DP 2752 and Lots 1 – 2 DP 2256951);
- Nos. 31 – 33 contain a commercial building (Lot A DP 398056 and Lot 6 DP 11931 respectively); and
- Nos. 35 & 35A contain Jump Street Studio (Lot 5 DP 11931).

The northern boundary of the site, along Treacy Street, is approximately 135 metres long. The site has a depth ranging between 27 metres and 35 metres, with an area of 4,199m². The Eastern Suburbs and Illawarra Railway Line runs along the rear (southern) boundary of the site (**Figure 2**).



Figure 2: Site Location

Hurstville Railway Station is approximately 300 – 400 metres west of the site. The site is also well serviced by buses, with the recently completed Hurstville bus interchange located approximately 450 metres west of the site. Surrounding development is generally characterised by low rise commercial buildings and new, larger scale mixed use premises.

1.2 Previous Approvals

On 1 July 2011, the Planning Assessment Commission (PAC) approved Concept Plan MP10_0101 for the construction of a mixed use retail and residential development including basement car parking, public domain improvements to Treacy Street and Landscaping. The approval included:

- use of the sites for retail and residential purposes and associated car parking;
- maximum gross floor area (GFA) of 28,474m²;
- indicative building envelope with maximum building height of 55 metres or 16 storeys (or 114.6 metres AHD);
- maximum of 257 dwellings;
- public domain improvements to Treacy Street; and
- landscaping.

1.3 Land & Environment Court Action

On 9 November 2011, Hurstville City Council lodged an appeal with the Land & Environment Court, challenging the validity of the Concept Plan approval, on the basis that:

- owner's consent of all the land to which the development applies was not obtained, prior to the determination;
- manner of requirement for future provision of community space; and
- that Council was denied procedural fairness, in relation to representations made by the Proponent to the Planning Assessment Commission.

The matter was heard before Justice Pain on the 6 and 7 March 2012. On 12 June 2012 the appeal was dismissed.

2. PROPOSED MODIFICATION

2.1 Modification Description

On 28 April 2012, Earljest (the Proponent) submitted a modification request to modify Concept Plan MP10_0101, pursuant to section 75W of the *Environmental Planning & Assessment Act* (the Act). The modification request seeks approval for the following modifications:

Table 1: Proposed Modifications

Proposed Modification	
Project Summary	<ul style="list-style-type: none"> • an increase in residential floor area from 24,748m² to 26,775m² (+2,027m²); • a decrease in retail floor area from 3,726m² to 1,499m² (-2,227m²); • an increase in number of residential units from 257 to 283 (+26 units); • a modified unit mix; • the provision of 200m² of community floorspace; and • staging of the development.
Changes to Project Approval	<ul style="list-style-type: none"> • deletion of Term of Approval A1(c)- which stipulates a maximum number of units; • inclusion of staged development as part of approval; and • amend Term of Approval A8 to require a minimum 35 car parking spaces for retail and community uses (existing requirement is for 79 spaces).
Basement Car Parking	<ul style="list-style-type: none"> • a modified basement parking layout; • an increase in total car parking spaces from 350 to 377 (+27 spaces); • compartmentalised car parking to allow for proposed staging of development; • deletion of approved direct vehicle access from street level to basement level 2; • relocation of approved detention tank to stage 1 of development; • deletion of retail space to basement level 1; and • reduction in floor to ceiling heights.
Project Layout	<ul style="list-style-type: none"> • amended floor layout of upper levels; • relocation of retail loading dock and waste storage from basement level 1 to ground floor level; and • reduction in number of loading docks from 5 to 2.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify the Project Approval

In accordance with clause 3 of Schedule 6A of the Act, section 75W of the 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 his delegate) may approve or disapprove the modification of the project under section 75W of the Act.

3.2 Modification of the Minister's Approval

The modification of the Minister's Approval by way of section 75W is appropriate because the proposal is consistent original Concept Plan and Project approvals and will have limited environmental consequences.

3.3 Environmental Assessment Requirements

Section 75W(3) of the Act provides that the Director-General may notify the Proponent of environmental assessment requirements (DGRs) 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 environmental assessment requirements pursuant to section 75W (3) with respect to the proposed modification, as sufficient information was provided to the Department to consider the application.

3.3 Determination Under Delegation

The Minister has delegated his functions to determine section 75W modification requests to the Director, Metropolitan & Regional Projects, where:

- the council has not made an objection, and
- a political disclosure statement has not been made, and
- there are less than 10 public submissions objecting to the proposal.

The Department did not receive any public submissions and Council has not objected to the proposal. There has also been no political disclosure statement made for this modification request or for any previous related application.

Accordingly the application is able to be determined by the A/Director, Metropolitan & Regional Projects South, under delegation.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with section 75X(2)(f) of the Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the Department's website and referred to Hurstville City Council, the Roads and Maritime Services (RMS) and RailCorp for comment. Due to the nature of the proposed modification, the modification request was not exhibited by any other means.

No public submissions were received in relation to the modification request.

Hurstville City Council

Hurstville City Council advised that while the proposed modification does not alter the approved height, bulk or scale of the development, concerns raised during the assessment of the original Major Project Application in terms of bulk and scale, traffic and other issues remain relevant.

In addition, Council also raised concerns with the proposed modification in relation to the proposed increase in car parking numbers and reduction in the retail floor space. These issues are addressed in Section 5 of this report.

RailCorp

RailCorp raised concerns regarding the proposed amended southern setback, adjacent to the adjoining rail corridor. This is discussed in section 5 of this report.

Roads & Maritime Services

RMS raised no objection to the proposed modifications

5. ASSESSMENT

The Department considers the key issues for the proposed modification to be:

- bulk/scale and density;
- residential amenity;
- car parking; and
- staging of the development.

5.1 Bulk/Scale & Density

Bulk & Scale

The modification request does not seek any amendment to the approved maximum building height, however, it does seek to modify the approved southern (rear) setback of the approved building at the lower basement levels and ground floor level.

The existing approval provides for a one metre setback from the southern boundary with the rail corridor for all four basement levels and the ground level of the building. The upper levels have greater setbacks of between 4.5 and 12 metres, which are not proposed to be amended as part of this modification request.

The modification application proposes to reduce the rear building setback for all four basement levels and the ground level to a nil setback from the southern (rear) site boundary. RailCorp raised concerns over potential instability of the rail corridor as a result of the reduced setback and the lack of sufficient detailed technical information to make an informed response on potential impacts.

Further to discussions between the Proponent, RailCorp and the Department, on 22 August 2012 RailCorp advised that the inclusion of a new condition requiring the rear setback to be subject to consideration of future detailed technical material at the development application stage, would satisfy all concerns. This information includes dilapidation surveys and geotechnical and structural stability surveys, required to be provided with future development applications by existing Future Environmental Assessment Requirement 11.

It is recommended that a new modification be imposed advising that the southern setback for the basement and ground floor levels is subject to future concurrence by RailCorp, at the development application stage. If concurrence by RailCorp cannot be achieved, the modification requires a 1 metre setback from the boundary, consistent with that approved as part of the original approval.

The proposed modification also seeks to increase the depth of the approved excavation for the basement levels by 3.5 metres from RL 43.00 to RL46.50. This modification has resulted from the proposed increase in parking spaces and the rearrangement of the basement levels to allow for the staging of the development. The proposed increase in car parking spaces is consistent with the Concept Plan approval. In addition, the proposed additional excavation will be subject to provision of future technical detail at the development application stage and RailCorp has not raised any objections. The Department is therefore satisfied that the proposed additional excavation is acceptable.

Gross Floor Area

The proposed modification will result in an increase in the approved total residential floor area and a decrease in the approved retail floor area. In addition, the proposed modification includes the

provision of 200m² of community floor area. The proposal will not result in any change to the total maximum floor area, approved by the Concept Plan. The approved and proposed GFA is shown in **Table 2**.

Table 2: Approved and Proposed Gross Floor Area

	Approved Development		Proposed Modification		Difference
	m ²	% of total GFA	m ²	% of total GFA	
Residential	24,748m ²	87%	26,775m ²	94%	+2,027m ²
Retail	3,726m ²	13%	1,499m ²	5%	-2,227m ²
Community	0m ²	0%	200m ²	1%	+200m ²
TOTAL	28,474m²	100%	28,474m²	100%	0m²

The reduction in retail floor area has resulted from the proposed deletion of all retail floorspace at basement level 1 and a reduction in the retail floor area to the ground and first floor levels. The previously approved large retail space, identified for a potential supermarket has been redistributed to smaller retail spaces. Council has raised concerns regarding the proposed reduction in retail floor area, advising it is inconsistent with Council's aim to create active street frontages at ground floor levels.

At ground level, the approved development has a street frontage of approximately 135 metres. The previous approval provides for approximately 60 metres of active retail frontage. The proposed modification will result in a reduction in the retail street frontage to approximately 53 metres (a reduction of 7 metres). This reduced retail frontage has however, been replaced with a community centre which will provide an active street frontage to the development at ground floor level.

The Department supports the introduction of a community centre at ground floor level and considers that the proposed modification will not result in a reduction in the vibrancy of the ground floor level of the development.

The Department does not consider that the proposed reduction in retail floor area will have any negative impacts on the activeness of the ground floor level street frontage or the success of the overall development. In addition, the Department supports the inclusion of community floorspace and notes that the development will not exceed the maximum GFA approved by the Concept Plan. The proposed modifications to the approved floorspace are therefore supported.

Dwelling Numbers & Mix

The proposed modification seeks to increase the total number of dwellings and provide an amended dwelling mix. The approved and proposed dwelling mix is illustrated in **Table 3**.

Table 3: Approved and Proposed Dwelling Mix

	Approved Development		Proposed Modification	
Studio	0	0%	1	1%
1 bedroom	74	29%	46	16%
2 bedroom	171	66%	217	76%
3 bedroom	12	5%	19	7%
TOTAL	257	100%	283	100%

The proposed increase in dwelling numbers from 257 to 283 (an increase of 26) has been facilitated from the proposed increase in the residential GFA and changes to the proposed apartment mix.

The modified development will provide a suitable mix of dwelling types, catering for a range of household types. In addition, the site is well located within walking distance of Hurstville City Centre, identified as a Regional Centre within the Draft South Subregional Strategy, providing easy access to jobs and public transport. The Department considers that the site is appropriate for high density residential development and the development is capable of providing these additional dwellings without any detrimental impacts on residential amenity or surrounding development. The proposed increase in dwellings is therefore supported.

Further to the proposed modified dwelling numbers, the Proponent has requested that existing Term of Approval A1 be amended to delete the reference to the maximum number of permitted dwellings. The Proponent has argued that although the modification provides an approximate number and mix of proposed dwellings, flexibility is required to allow for changes to market demand, at the detailed development application stage.

The Department considers that limiting the maximum number of dwellings within the development through the Concept Plan, provides certainty regarding the appropriate density of development through the detailed development applications. The Department does, however, recognise the need to provide some flexibility for the development, particularly given that the development is to be staged. The Proponent has therefore agreed to an amendment to existing Term of Approval A1 to limit to the maximum permitted GFA split for residential and non-residential uses. This will provide certainty that the development will remain a mixed use development with an appropriate mix of land uses, while providing flexibility in terms of the development's final dwelling mix and yield. An assessment of appropriate dwelling mix and yield can be undertaken by Council at the detailed development application stage.

5.2 Residential Amenity

SEPP 65 & Residential Flat Design Code

The project is a Concept Plan only however, the indicative dwelling layouts within the proposed modification have been assessed against the principles of State Environmental Planning Policy No. 65- Design Quality of Residential Flat Development (SEPP 65) and the accompanying Residential Flat Design Code (RFDC).

The modified scheme will remain consistent with the principles of SEPP 65. In relation to the RFDC, the indicative apartment layouts are generally in accordance with the recommendations of the RFDC in terms of unit size, natural ventilation, solar access, single aspect south facing units and open space. Strict compliance with the principles of SEPP 65 will be considered as part of the assessment of future development applications.

Details of the Department's full assessment against SEPP 65 and the RFDC may be viewed in **Appendix C**.

5.3 Car Parking and Traffic

Car Parking Provision

Council raised concerns regarding the proposed increase in on-site car parking provision. The proposal seeks approval to increase the total number of car parking spaces from 350 to 377 (an increase of 27 spaces).

In their assessment of the original Concept Plan application, the PAC reviewed Hurstville Council's existing parking rates in comparison to the rates in similar major centres and RMS (then the RTA) subregional criteria. The PAC concluded that the minimum residential parking requirements contained within the Hurstville Council DCP No. 2 were compatible with the RMS guidance. The PAC considered it appropriate to apply Burwood Council's parking requirements for retail development given the similarity of Burwood town centre to Hurstville town centre. The PAC accordingly imposed Term of Approval A.8, requiring that the proposed provision of 275 parking spaces be increased to 350 spaces.

Table 4 illustrates the number of parking spaces required for the approved development as well as the minimum parking requirements and those proposed for the modification request.

Table 4: Approved and Proposed On-site Car Parking

	Approved Development	Proposed S75 W Modification	
Land Uses	Approved No. of spaces	Min Required No. of spaces	Proposed No. of spaces
Residential	206	1 space per 100m ² (100% to be on-site) = 230 spaces*	271
Residential Visitor	65	1 space per 4 units (100% to be on-site) = 71 spaces	71
Retail	79	1 space per 50m ² = 30 spaces	30
Community**	n/a	1 space per 50m ² = 4 spaces	5
TOTAL	350	335	377

* As part of the assessment of the original Concept Plan, the PAC applied the parking rate to the leasable residential floor area only. The proposed residential leasable floor area is 23,015m². This consistent approach has also been applied to the modification request.

** Burwood Council's parking rate for retail uses has been applied to the community floor area, given the lack of any specifically applicable rate and the comparability of uses.

As illustrated in **Table 4** the proposed modified development will provide on-site car parking in accordance with the rates applied to the original Concept Plan approval. The Department therefore supports the proposed total on-site car parking provision.

Traffic

Council's submission reiterated concerns raised previously in relation to the original Concept Plan relating to increased traffic, resulting from the development. The proposed modification, which includes an increased parking provision, has been accompanied by a Traffic and Parking Impact Report. The report estimated that the modified development will result in approximately 111 and 137 traffic movements at the AM and PM peak hours, respectively. This compares to an estimated 248 and 352 trips for AM and PM peak hours, for the approved development. The significant reduction in terms of estimated vehicle movements at peak hour has resulted from the deletion of the retail floorspace provided for the potential supermarket on site. The modification has resulted in smaller retail spaces which would generate fewer vehicle movements.

The proposed modification is therefore likely to have a lesser impact on traffic to the site and surrounding road network than the approved development and is therefore supported in relation to traffic impacts. Existing Future Environmental Assessment Requirement 10 still applies which requires the Proponent to undertake further assessments in relation to impacts on existing traffic intersections with recommendations for any necessary improvements.

5.4 Staging of the Development

The proposed modification seeks to include the specific staging of the development, as part of the approval. It is proposed to split the development into 3 stages including Stage 1; Central portion of the development, Stage 2; western portion of the development and Stage 3; the eastern portion of the development. It is the intent of the staging of the development that each stage can be considered as separate development applications. The proposed staging is illustrated in **Figure 3**.

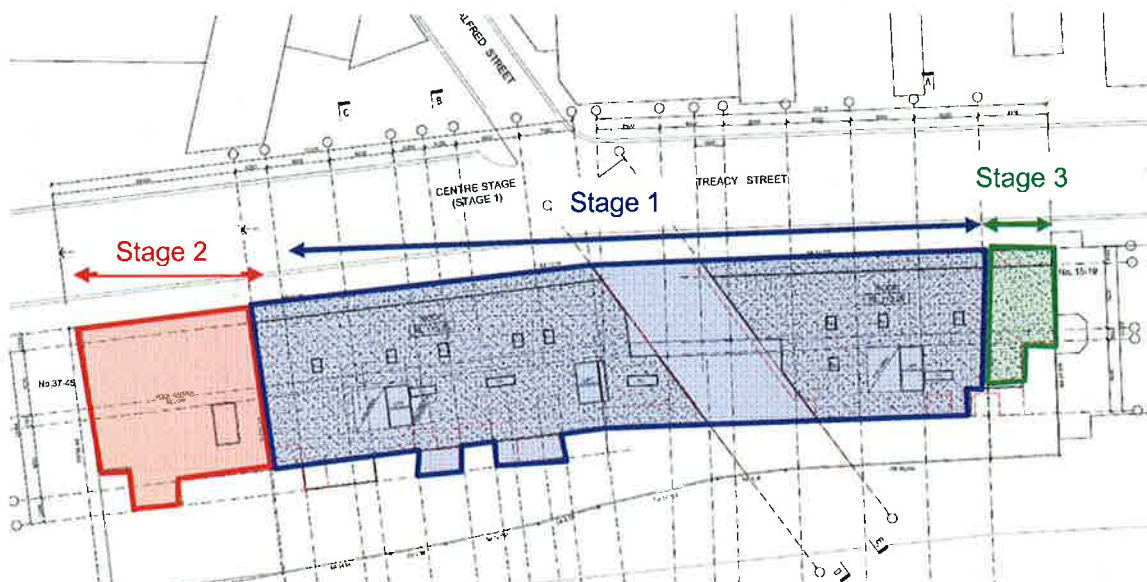


Figure 3: Proposed Staging

Urban Design

Photomontages showing the streetscape appearance of the proposed 3 stages of the development and the approved scheme are illustrated in **Figures 4- 11**.

This modification request was accompanied by a statement by architect of the original and proposed modified scheme, Frank Stanisic, advising that the proposed development has been designed as three independent stages, so that stages 1 and 1 & 2, will stand on their own merits.

The Department considers that the design of the proposed staged development provides a satisfactory urban design solution. Each of the three stages will maintain the overall design integrity of the combined scheme, while also ensuring the amenity of occupants and the functionality of the development, as well as being structurally sound.

The Department is therefore satisfied that the proposed staging of the development will not have any detrimental impacts on the design quality of the approved scheme.



Figure 4: Looking east along Treacy St- Stage 1



Figure 5: Looking east along Treacy St- Stages 1 & 2



Figure 6: Looking east along Treacy St- Stages 1, 2 & 3

NSW Government



Figure 7; Looking east along Treacy St- Approved Scheme



Figure 8: Looking west along Treacy St- Stage 1



Figure 9: Looking west along Treacy St- Stages 1 & 2



Figure 10: Looking west along Treacy St- Stages 1, 2 & 3

NSW Government



Figure 11: Looking west along Treacy St- Approved Scheme

Car Parking

The proposed staging of the development will include the basement car parking being constructed in the same staged manner as the above ground development. Once fully completed, the basement car parking on each level will be open and not restricted to each stage of development.

The Department has considered the implications of the proposed staging of the development and the on-site parking requirements of each stage of the development. This is important to consider as any delay or abandonment of future stages of the development could have implications on the operation of the development in terms of car parking provision. **Table 5** illustrates the on-site car parking requirement for each stage of the development, based on the indicative GFA of land uses within that stage and the proposed car parking for Stages 1, 2 and 3.

Table 5: Approved and Proposed On-site Car Parking

	Leasable Residential GFA	Leasable Retail GFA	Min Required No. of spaces	Proposed
Stage 1	17,933m ²	1,012m ²	256 spaces	273
Stage 2	3,714m ²	470m ²	58 spaces	86
Stage 3	1,368m ²	217m ²	21 spaces	18
TOTAL	23,015m²	1,699m²	335	377

The table confirms that for the Stages 1 and 2, a sufficient number of car parking spaces will be available to comply with the minimum requirements for that stage. There is a minor deficiency in relation to Stage 3 however, upon completion, the basement car parking will not be restricted to compartmentalisation and car parking spaces from other stages will be utilised for Stage 3.

The Department is therefore satisfied that proposed staging of the development will not have any negative impacts upon the proposed on-site parking provision.

Construction

Existing Future Environmental Assessment Requirement 10 requires a Construction Management Plan to be submitted to Council for approval as part of future development applications, which is considered acceptable to address the proposed staging of the development.

6. CONCLUSION

The Department is satisfied that the modification request complies with the requirements of the approved Concept Plan (as modified by the PAC requirements). In addition, subject to recommended modified and new Future Assessment Requirements and modifications, the Department considers that the proposal will provide acceptable amenity to occupants, consistent with original project approval.

Through negotiation during the assessment process, future development applications will be provided with some flexibility in terms of dwelling numbers and setbacks, within the acceptable range to ensure a satisfactory development.

The modified proposal achieves the same objectives as the original approved project and does not alter the overall nature, need or justification of the approved project. It is therefore recommended that the modification request be approved subject to the amended and new conditions.

7. RECOMMENDATION

It is RECOMMENDED that the A/Director, Metropolitan & Regional Projects South, as delegate for the Minister for Planning and Infrastructure:

- **note** the information provided in this report;
- **approve** the modification request, subject to conditions; and
- **sign** the attached modifying instrument.

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APPENDIX A MODIFICATION REQUEST

See the Department's website at: <http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

See the Department's website at: <http://majorprojects.planning.nsw.gov.au>

APPENDIX C SEPP 65 AND RFDC ASSESSMENT

Table 5: Assessment against SEPP 65 Principles

Key Principles of SEPP 65	Department Comment
Principle 1: Context	The proposed modified development remains appropriate within the site context.
Principle 2: Scale	The proposed modifications will not alter the scale of the development.
Principle 3: Built Form	The proposed modifications will not alter the built form of the development.
Principle 4: Density	The proposal will increase the density of residential units from 257 to 283 units (an increase of 26 units). The overall GFA of the development will not increase. The proposed density of the development is considered acceptable given the location of the site and the high public transport accessibility.
Principle 5: Resource, Energy and Water Efficiency	Future development applications will need to undertake all appropriate and relevant environmental assessments, including BASIX, to ensure the building is resource, energy and water efficient.
Principle 6: Landscape	The proposed modification will not alter the approved landscaping.
Principle 7: Amenity	The proposed modification has illustrated that satisfactory residential amenity can be provided to residents through the detailed development application design stages, consistent with the objectives of the RFDC.
Principle 8: Safety & Security	The proposed modifications maintain principles of Crime Prevention through Environmental Design.
Principle 9: Social Dimensions and Housing Affordability	The modification will provide a mix of dwelling types and sizes, catering for a mixed community.
Principle 10: Aesthetics	The modified building maintains the building articulation of the approved scheme, providing for an interesting streetscape at each stage of the development.

Table 6: Assessment against RFDC Recommended Standards

	RFDC Recommendation	Proposed Modification	Complies?
Building Separation			
Habitable rooms	≥24m for buildings over 25 m in height	12m	Consistent with requirements of Concept Plan approval
Non-habitable rooms	≥12m for buildings over 25 m in height		
Building Depth	≤18m	12m-20m	Consistent with requirements of Concept Plan approval
Natural Cross Ventilation	60%	61% (173 units)	YES
Solar Access	70%	72% (203 units)	YES
South Facing Units	Less than 10%	3% (8 units)	YES
Apartment Size (min)	Studio- 38.5m ² 1 bedroom- 50-63m ² 2 bedroom- 70-121m ² 3 bedroom- 95-124m ²	Studio- 45m ² 1 bedroom- 51-61m ² 2 bedroom- 69-92m ² 3 bedroom-112-123 m ²	YES YES Generally consistent YES

Balcony Depth	Min 2m	Min 2m	YES
Floor to Ceiling Heights	≥2.7m	2.4m to non-habitable rooms 2.7m to habitable rooms	Acceptable on merit

In light of the assessment detailed in Section 5 of this report and the existing modifications required in relation to future development applications on the site, it is considered that the proposal displays an acceptable level of consistency with the Principles in SEPP 65 and the accompanying RFDC.

APPENDIX D RECOMMENDED MODIFYING INSTRUMENT
