



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

Modification MP10_0101 MOD 2



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

April 2014

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EXECUTIVE SUMMARY

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 and landscaping at 21 – 35 Treacy Street, Hurstville. The approval was subsequently modified on 4 September 2012.

This is a report for a proposal pursuant to Section 75W of the Environmental Planning and Assessment Act 1979 seeking to modify the Concept Plan (as approved) as follows:

- Increase in the height of the stage 1 envelope by 3 storeys;
- Addition of a upper ground floor mezzanine level incorporating additional parking and floor space;
- Increase maximum gross floor area by 4,023m² (from 28,474m² to 32,497m²);
- Increase residential floor area by 3,684m² (from 26,775m² to 30,459m²);
- Reduce retail floor area (from 1,499m² to 687m²) in lieu of a new child care centre (1,151m²);
- Some associated changes to floor levels;
- Changes to carparking provision and layout;
- Amendments to the Green Travel Plan required by the Statement of Commitments; and
- A draft Voluntary Planning Agreement for \$540,000 to Council towards public purposes.

The proposal was publically exhibited from 24 July to 23 August 2013 (30 days). The agency received submissions from Hurstville Council, RMS, Sydney Airport, and one public submission. The Council and public submission objected to the development. The main concern raised by Council was that the proposed increase in height and floor area represents a significant additional deviation from Council controls, including the draft City Centre LEP. Other concerns raised in the Council and public submissions relate mainly to traffic, overshadowing impacts, and visual bulk and scale.

The agency has assessed the merits of the proposed modification taking into consideration the issues raised in the submissions. On balance, the agency considers that the proposal would:

- Provide additional housing choice within a major centre and in close proximity to a public transport hub in accordance with strategic planning objectives;
- Be of a height and scale that is within the within the broad spectrum of building heights visible within the Hurstville city centre skyline and would not appear out of context in that regard; and
- Not result in unacceptable overshadowing or amenity impacts to surrounding development.

However, the agency is not supportive of some aspects of the modification request, including proposed additional parking beyond that necessary to support the additional dwellings and non-residential floor space, the proposed mezzanine parking level, and proposed changes to commitments in relation to a green travel plan. The assessment also raised concerns in relation to flexibility for future ground floor uses, on-site loading and waste collection, and street activation.

Subject to the imposition of appropriate terms of approval and future assessment requirements to ensure flexibility for future ground floor uses, appropriate parking, including deletion of mezzanine parking and improvements to loading and street activation, the agency considers that the proposed modification to the Concept Plan is acceptable and capable of delivering net benefits to the community by way of increased housing provision and increased local infrastructure funding, without any unacceptable amenity or traffic impacts.

The application is referred to the Planning Assessment Commission as Council has objected to the application.

1. BACKGROUND

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: Site Location

The site is located within the City Centre East precinct and comprises 5 parcels of land, each containing existing or former commercial uses. 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 1).

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. Immediately surrounding development is generally characterised by low rise commercial buildings and new, larger scale mixed use premises. Development on the opposite / southern side of the Railway line is predominantly residential uses.

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;
- maximum of 257 dwellings;
- public domain improvements to Treacy Street; and
- landscaping.

On 4 September 2012, the Director of Metropolitan and Regional Projects, South, as delegate for the Minister approved a modification of the Concept Plan (MP10_0101 MOD1) including:

- An increase in residential floor area to 26,775m²;
- A decrease in retail floor area to 1,499m²;
- The provision of 200m² of community floor area;
- Staging of development; and
- Modification to floor layouts.

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 owners consent was not obtained, and procedural fairness was denied to Council 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

The application seeks approval for the following modifications:

- Increase in the height of the stage 1 envelope by 3 storeys (from 16 to 19 storeys) or 11.4m (from 55m to 66.4m in height);
- Addition of a upper ground floor mezzanine level incorporating additional parking and floor space;
- Increase maximum gross floor area by 4,023m² (from 28,474m² to 32,497m²);
- Increase residential floor area by 3,684m² (from 26,775m² to 30,459m²);
- Reduce retail floor area (from 1,499m² to 687m²) in lieu of a new child care centre (1,151m²);
- Changes to floor levels including a 0.5m reduction to basement levels, 0.5m increase to 1st floor levels to accommodate mezzanine level and minor decrease in indicative floor to floor heights at upper levels;
- Changes to carparking provision and layout;
- Amendments to the Green Travel Plan required by the Statement of Commitments; and
- A Draft Voluntary Planning Agreement for \$540,000 to Council towards public purposes.

The proposed additional 3 levels are depicted in **Figures 2 to 4** below.

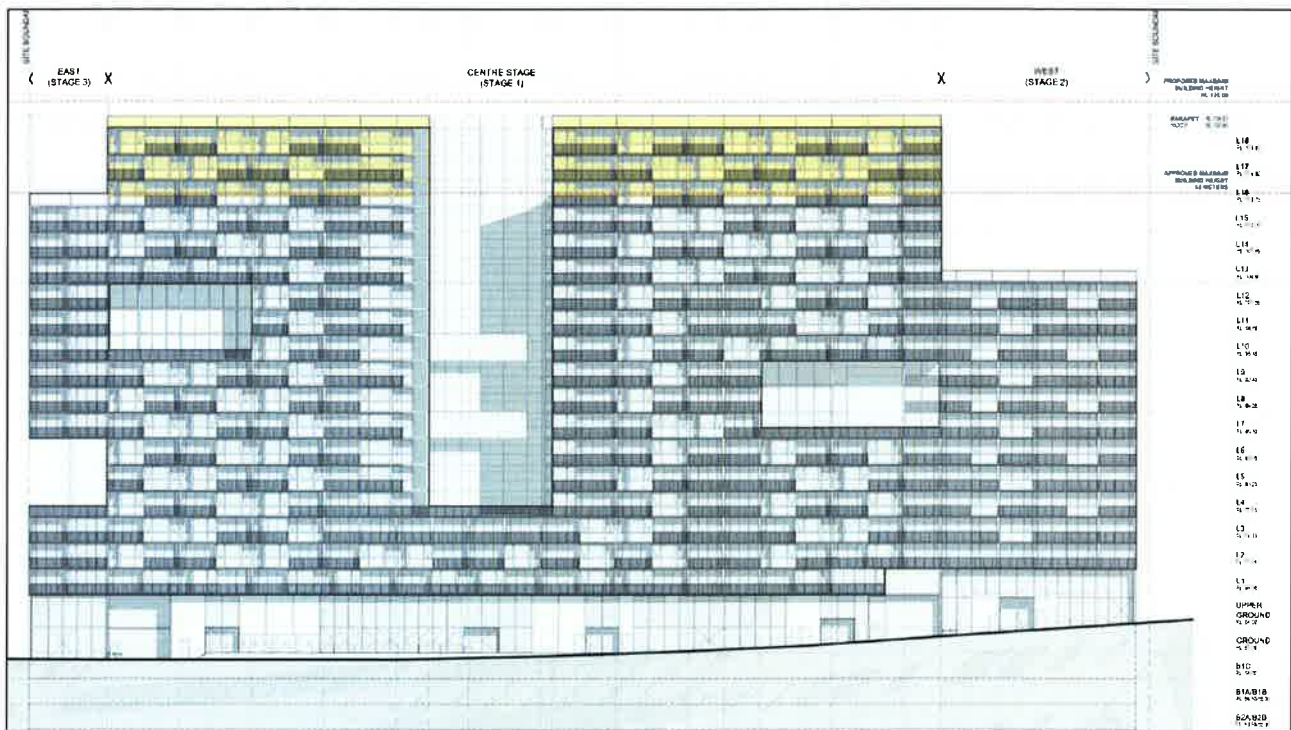


Figure 2: Tracy Street elevation showing proposed increase in height



Figure 3: Indicative building under approved Concept Plan



Figure 4: Indicative building under proposed modified Concept Plan (additional proposed levels shown in red)

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 with the original Concept Plan and Project approvals and there will be limited environmental consequences for future project approvals.

3.3 Environmental Assessment Requirements

No additional environmental assessment requirements were issued with respect to the proposed modification, as sufficient information has been provided to the agency in order to consider the application and the issues raised remain consistent with the key assessment requirements addressed in the original DGRs.

3.4 Determination Under Delegation

In accordance with the Minister's delegations dated 14 September 2011, the application is referred to the Planning Assessment Commission for determination as Hurstville City Council objects to the proposal.

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. In this regard, the agency:

- publically exhibited the application from 24 July to 23 August 2013 (30 days) on the agency's website, at the agency's Information Centre, and at Hurstville and Kogarah Councils;
- advertised the public exhibition in the Sydney Morning Herald; Daily Telegraph and St George and Sutherland Shire Leader on 24 July 2013; and
- notified landowners and relevant state and local government authorities in writing.

4.2 Submissions

One public submission was received in relation to the modification request. Further public authority submissions were received from Hurstville City Council; RMS; and Sydney Airport:

Hurstville City Council

Hurstville City Council advised that concerns raised during the assessment of the original Major Project Application in terms of bulk and scale, traffic and other issues remain relevant. In particular, the proposed increase in height and floor area represent a significant additional deviation from Council controls applicable to the site and will result in additional overshadowing of nearby properties. In addition, Council also raised concerns with the proposed child care centre in terms of being able to meet open space requirements and provide an active street frontage at ground floor level. These issues are addressed in **Section 5** of this report. Council was also subsequently notified when the proponent revised the application to include an offer to enter into a

Voluntary Planning Agreement. Council responded that it has previously declined the offer from the proponent and that its position has not changed, Refer to discussion in **Section 5.7** below.

Roads & Maritime Services

RMS raised no objection to the proposed modifications.

Sydney Airport

Sydney Airport and the Civil Aviation Safety Authority (CASA) advise it has no objection to the proposed height of 126m AHD.

Public Submission

One public submission was received which raised the following issues:

- Details of the proposal in the notification were unclear resulting in a lack of public submissions;
- Excessive overshadowing impacts;
- Traffic and parking impacts;
- Height, bulk and scale impacts;
- Non-compliance with local planning controls; and
- Acoustic impacts due to location near the railway line.

5. ASSESSMENT

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

- density, scale and height;
- overshadowing; and
- traffic and parking.

Other issues also relevant to the assessment of the proposal relate to: the proposed child care centre use; street activation issues; residential amenity; and the proposed voluntary planning agreement.

5.1 Density, Scale and Height

The proposed modification seeks an increase in the building envelope height by 3 storeys (from 16 to 19 storeys) or by 11.4 metres (from maximum height of 55 metres (RL 114.6 AHD) to maximum height of 66.4m (RL 126.0 AHD). It also seeks to increase maximum gross floor area from 28,474m² to 32,497m², resulting in a change in floor space ratio (FSR) from 6.78:1 to 7.74:1.

Council and Public Concerns

Concerns were raised by Council and in the public submission that the development as approved already significantly exceeds Hurstville Council Planning controls and the proposed modification would exacerbate the extent of non-compliances. In particular, the proposal as modified would significantly exceed the height and floor space ratio controls for the site as set out in Hurstville Development Control Plan 2 (DCP 2) and the Draft Hurstville LEP (Hurstville City Centre) 2012 which permit heights of 15 – 23 metres (4 to 7 storeys) and an FSR of 3:1 - 4:1. The Draft LEP is due to be re-exhibited in the second quarter of this year.

Related concerns were that this increase in height and density would result in environmental impacts to the surrounding area, notably in terms of overshadowing impacts and traffic impacts.

Proponent's justification

The proponent has justified the proposed increase in height and density on the grounds of:

- minimal environmental impact, particularly in terms of overshadowing, traffic and parking;
- compliance with the height requirements of the Civil Aviation Authority;

- consistency with the draft Metropolitan Strategy for Sydney which seeks a significant expansion in housing supply; and
- the changing context surrounding the site, including a recent approval to increase the height of a nearby building to 19 storeys.

The agency's consideration

The agency, in its assessment of the original application concluded that the height, bulk, and scale of the proposal was appropriate and that the exceedences of Council's planning controls were justified on the basis of:

- the context of surrounding buildings of similar height;
- a building envelope design that reduces visual impacts of bulk and scale; and
- alignment with planning objectives to promote higher density developments in proximity to transport and employment hubs.

Similarly, the Planning Assessment Commission questioned the Council's development controls and noted previous advice that they should be re-examined, and that the area was 'very under utilised'. The PAC considered that site was well located to provide higher density residential development in line with state and regional strategies.

The agency maintains its view that the proposed increased height and density should be assessed on the same terms as the original application, with consideration also being given to potential amenity impacts arising from the changes to height and density, in particular overshadowing and traffic congestion impacts. Overshadowing is considered in **Section 5.2** and traffic in **Section 5.3**. Context, visual impacts and planning objectives are considered as follows.

In terms of strategic planning objectives, the agency considers that the proposed increase in residential density would be consistent with the Draft Metropolitan Strategy, which specifically aims to deliver an increased rate of housing provision as compared to previous metropolitan strategies. The site is located within the Hurstville city centre, which is identified as a Major Centre under the Strategy where higher intensity residential development is encouraged. The strategy also seeks to facilitate re-development for more intense housing in appropriate existing areas, particularly in and around centres on the Strategic Transit Network (of which Hurstville is one). On this basis the agency considers that the proposed increased residential density on the site would be line with the strategic objectives for the region.

In terms of context and visual impacts, consideration has been given to the existing and emerging skyline of Hurstville. To demonstrate the merits of the proposed height in the context of the surrounding built forms, the proponent has submitted comparative east-west and north-south height studies, taking into account likely future development in accordance with Council's height controls as well as recently approved and existing developments. The height study images detail the location and form of the proposed development within the Hurstville city centre skyline. Refer to **Figures 5** and **6**. The proponent has also submitted numerous perspective drawings and photomontages to demonstrate the visual impact of the proposed additional 3 storeys in the context of surrounding development. Refer to **Figures 7 - 10**.

**CITY CENTRE PROPOSED CROSS SECTIONS:
WEST-EAST**

The west-east cross section shows the comparison between the building height in DCPNo2 - HCC 2012 and the proposed building height on the subject site, both of which are placed onto the existing topography. It also illustrates the improved definition of the urban edge along Illawarra Rail Line.

Building heights comprise proposed heights of buildings - extracted from the DCP No2 HCC 2012 and approved building heights.

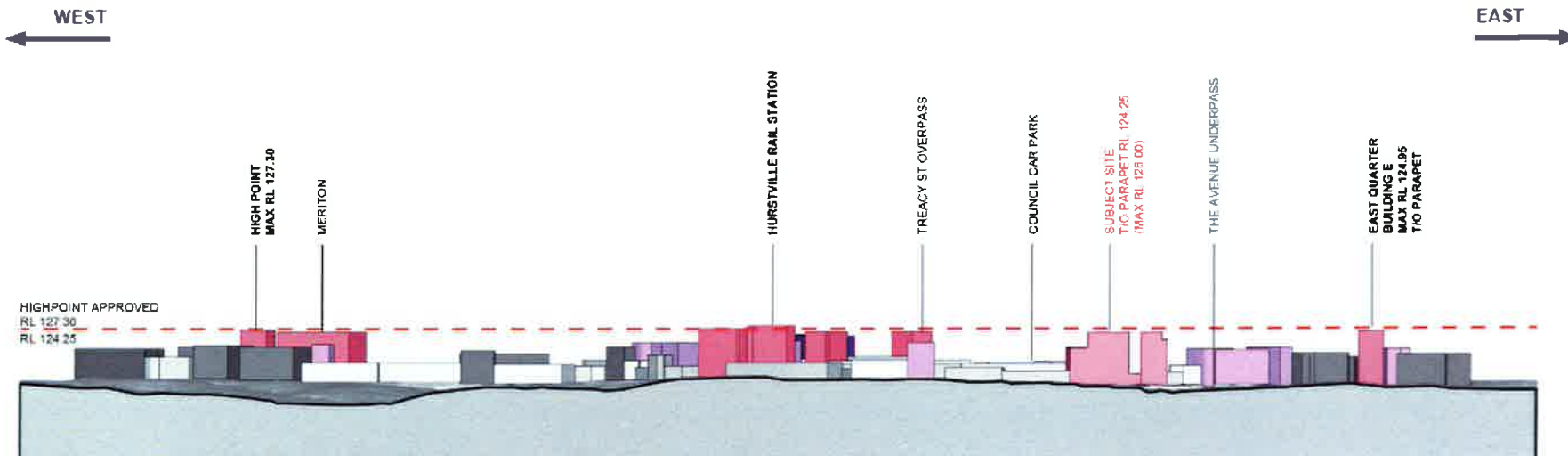
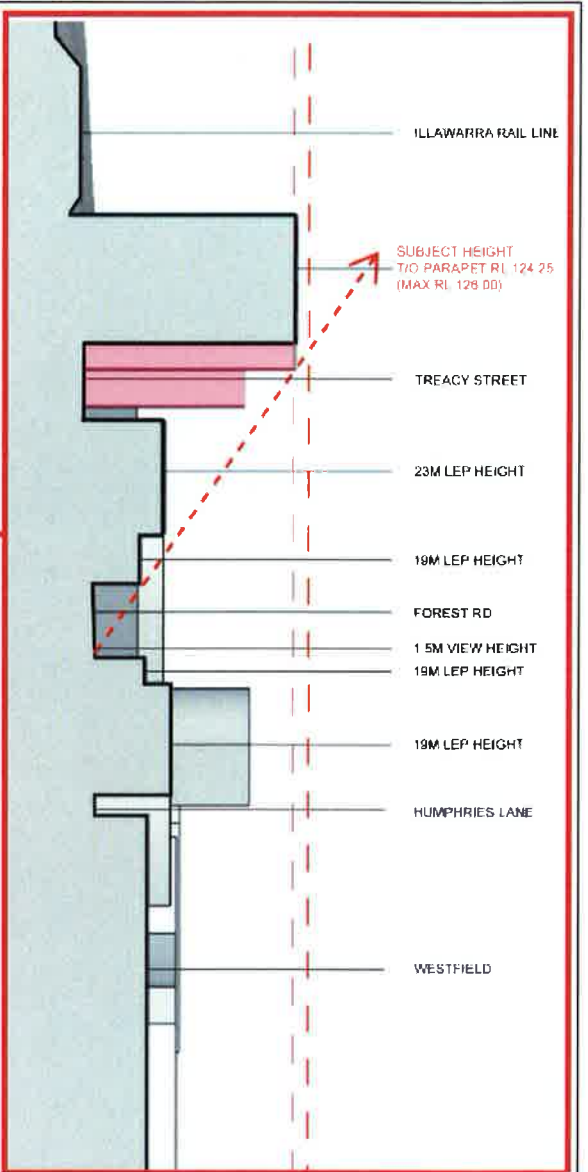


Figure 5: City Centre West-East Cross Section (Source: Proponent's PPR)



**CITY CENTRE PROPOSED CROSS SECTIONS:
SOUTH-NORTH**

The south-north cross section shows the comparison between the proposed building height in DCPNo2 - HCC 2012 and the proposed building height on the subject site, both of which are placed onto the existing topography.

Building heights comprise proposed heights of buildings - extracted from the DCP No2 HCC 2012 and approved building heights.

- HEIGHT OF BUILDINGS:
- 60M
 - 55M
 - TOP OF MAXIMUM APPROVED BUILDINGS HEIGHT AT HIGHPOINT
- DEVELOPMENT CONTROL PLAN NO 2:
MURRUMBidge CENTRAL 2012
APPROVED BUILDING HEIGHTS

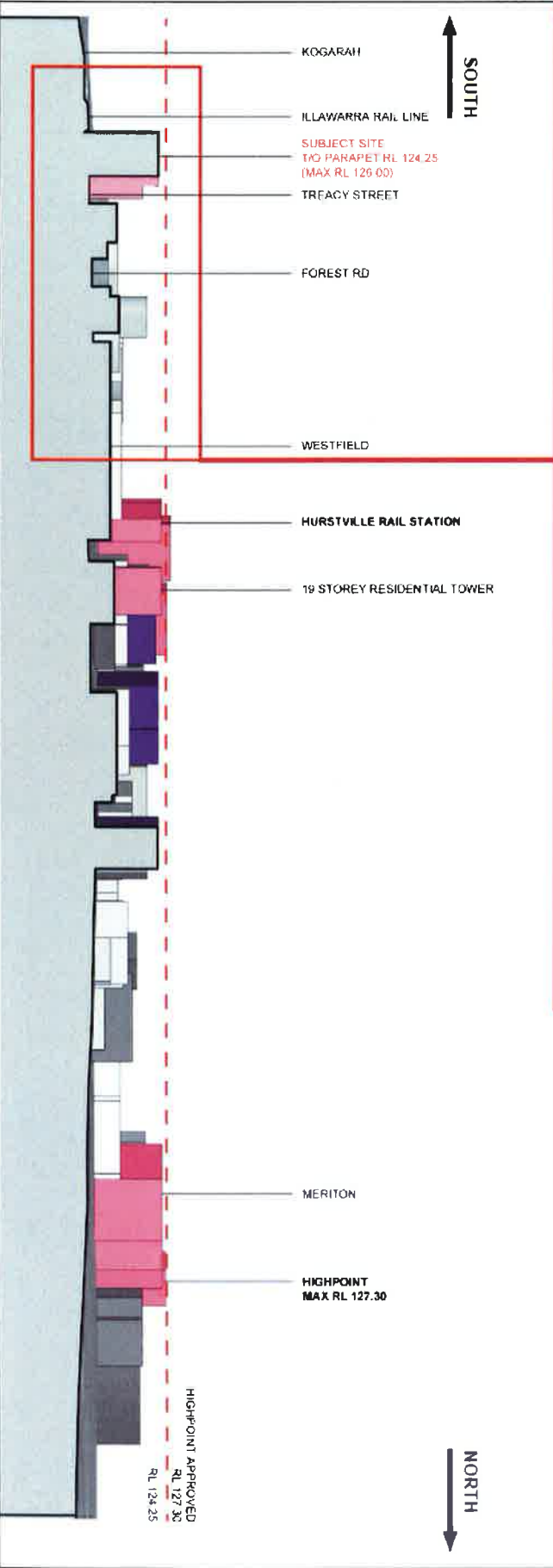


Figure 6: City Centre South-North Cross Section (Source: Proponent's PPR)

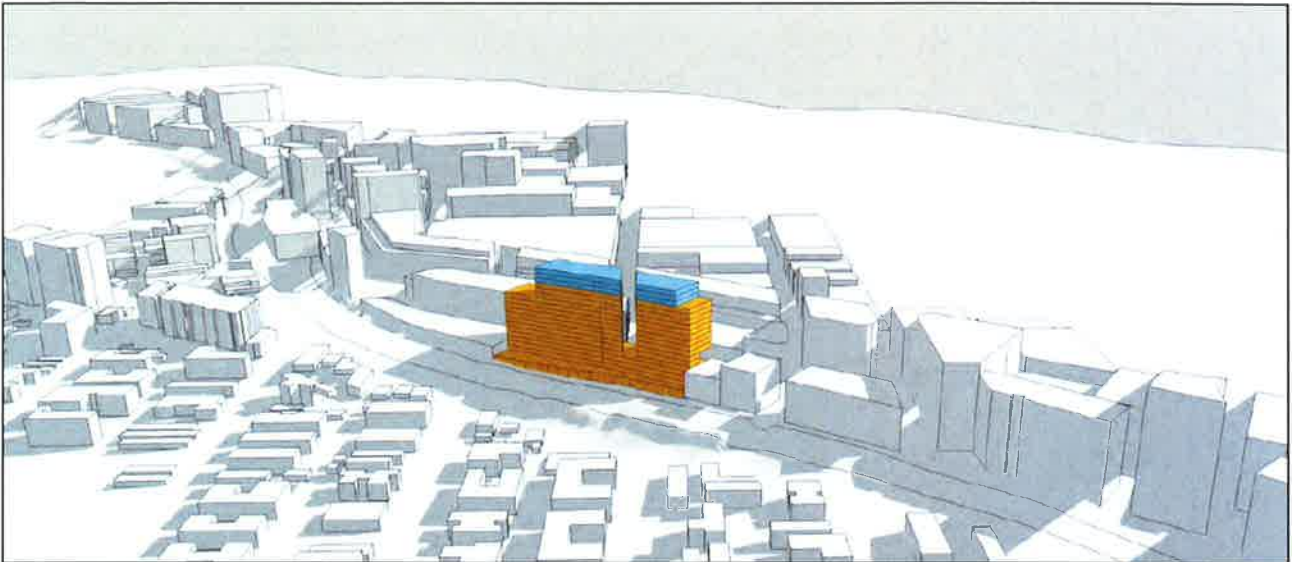


Figure 7: Perspective drawing of the proposal in context looking north (source: Proponent's EA)

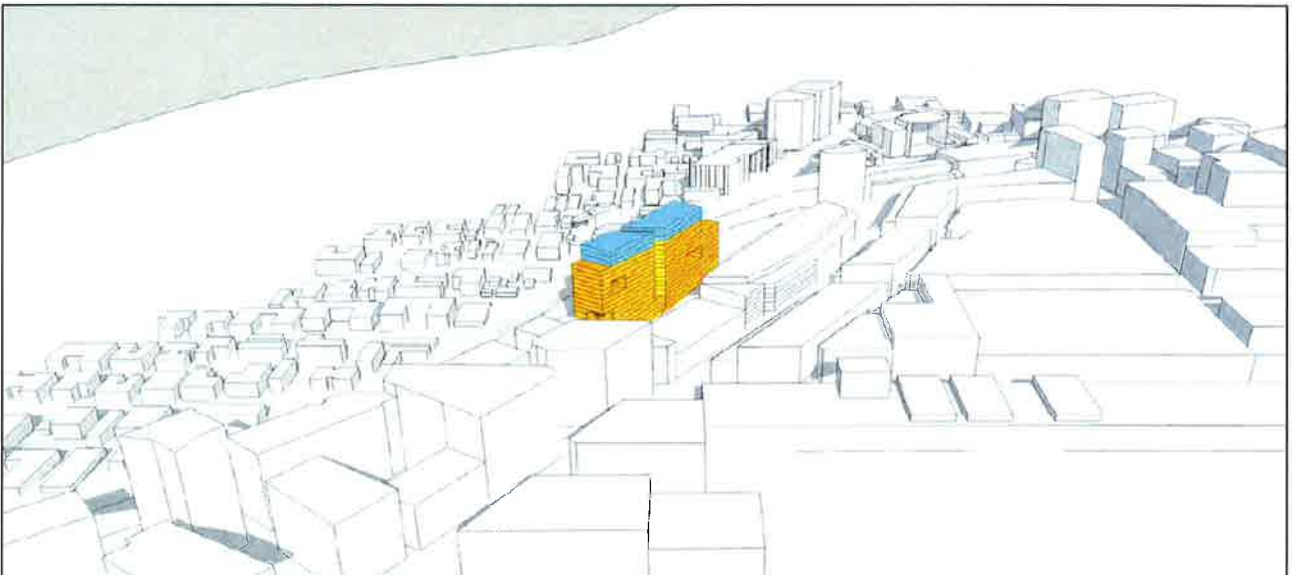


Figure 8: Perspective drawing of the proposal looking south-west (source: Proponent's EA)



Figure 9: Photomontage: view along railway corridor (source: Proponent's EA)



Figure 10: Photomontage: looking west along Railway Parade (source: Proponent's EA)

The contextual analysis demonstrates that while the proposed modifications would result in the building being one of the tallest developments within the city centre, it would still fall within the broad spectrum of building heights visible within the skyline and would not appear out of context in that regard.

The agency's original assessment also considered the issue of the bulk of the built form. The assessment noted that although the proposed development had a height comparable to surrounding buildings, these buildings tended to present less bulk by virtue of having smaller floor plates. Nevertheless, the respectively larger floor plate of the proposal was considered acceptable, subject to a requirement that the building separation slot be widened from 9 metres to 12 metres to enable the development to present more like two tower elements and thereby reducing its visual impact.

By virtue of the 9.3 metre and 24.6 metre setbacks from the eastern and western ends of the building respectively, the proposed additional 3 storeys would have smaller floor plates than the approved lower levels. The agency considers that in this case, the provision of 3 additional levels with a smaller floor plate adds further articulation to the building form and gives a more vertical emphasis to the building elements, thereby improving the overall appearance of the building and resulting in a positive visual impact for the city skyline.

The agency therefore considers the proposed height and scale to be appropriate in terms of its context, visual impacts and strategic planning objectives.

5.2 Overshadowing

The proposed height increase will result in some additional shadowing of dwellings on the southern side of the railway line, located within Kogarah LGA. The extent of additional overshadowing is depicted in shadow diagrams included at **Appendix D**.

The Residential Flat Design Code (RFDC) recommends that in dense urban areas, living rooms and private open spaces should receive a minimum of two hours of solar access between 9am and 3pm mid-winter. Most of the dwellings affected by the proposal have their living rooms oriented away from the site or already in shadow such that the proposal will not result in additional overshadowing of living rooms at midwinter. Most of the dwellings will also continue to receive 2 hours of solar access to 50% of their open space area. The exceptions are two dwelling houses at 538 and 540 Railway Parade and a block of 6 units at 522 Railway Parade. The particular impact of the proposal on these dwellings is as follows:

- Additional overshadowing to rear gardens of dwellings at Nos 538 and Nos 540; and
- Additional overshadowing to balconies and living room windows of units at 522 Railway Parade.

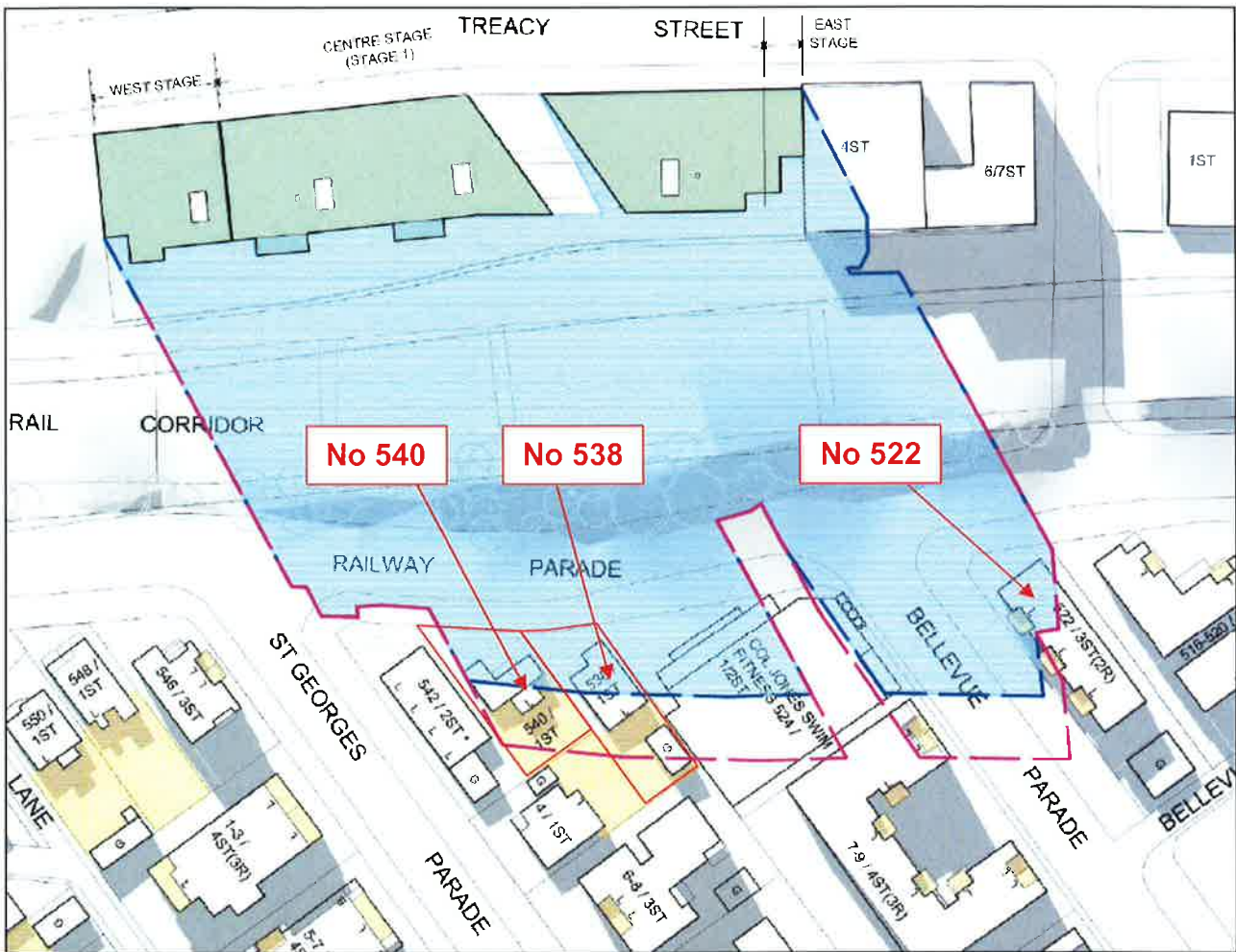


Figure 11: Shadows at 1pm mid-winter (source Proponent's EA)

Impact to 538 and 540 Railway Parade

These properties accommodate single storey dwelling houses. Due to their orientation, the rear gardens are partially shadowed by the existing dwellings on those sites. While the current approved development will cause some additional overshadowing, it still allows solar access to be retained to more than half the garden areas for more than 3 hours at mid-winter. The proposed modification will result in some additional overshadowing of the gardens between 10.00am and 2.00pm, and in combination with self-shadowing the rear gardens will be shadowed to differing extents between 9.00am to 3.00pm at mid-winter.

Impact to 522 Railway Parade

522 Railway Parade accommodates a two storey residential flat building containing 6 units which have balconies and living room windows all on the south-west facing façade (refer to **Figures 11, 12 and 13**). As such the balconies and living rooms are self-shadowed throughout the day, other than between 2.00pm and 3.00pm mid-winter, when most of balconies and living room windows are in sunlight (although ground floor units are partially shadowed by the balconies above).

The development as already approved will partially shadow the south-west façade between 2.00pm and 3.00pm and the proposed modification will result in some additional shadowing such that some living room windows and balconies will receive no sunlight and others receiving only a few minutes at mid-winter.

Proponent's justification

In support of the additional overshadowing at Nos 538 and 540, the proponent suggested that due to the orientation and existing self-shadowing of the rear gardens, a qualitative approach rather than a quantitative one, should be taken. In this regard the proponent demonstrated that an area of the each of the rear gardens large enough to be able to be used for private open space purposes would be in sunlight for at least 4 hours a day in mid-winter. The size of the area in sunlight at these times would exceed 50m², being more than double the principal primary open space area required under the Codes SEPP. In addition, the proponent notes that the sites are underdeveloped; being single storey dwelling houses in an area zoned for medium density residential development and are likely to be the subject of future redevelopment.

With regard to the additional overshadowing at No 522, the proponent argues that:

- The site is significantly constrained by its orientation;
- Even between 2pm and 3pm the balconies and living room windows are already partially self-shadowed by eaves and balconies on the building. In addition, most of the balconies and windows are also shadowed by a number of densely planted mature trees on the site, which, as established by the Land and Environment Court, may be taken into account in a qualitative way. The proponent suggests that the occupants have deliberately chosen the privacy and amenity created by the trees in favour of additional sunlight.
- Therefore, the amount of sunlight actually received regardless of the proposed modification is very little, and the extent of additional overshadowing arising from the proposal is therefore relatively minor.
- At other times of the year, the extent of overshadowing is significantly improved. On May 2 (ie 50 days either side of the winter solstice) the proposal would no longer impact the dwellings at 522 Railway Parade. This represents a small increase (by 8 days either side of the solstice) from the development as approved which begins to affect the dwellings on May 11.



Figure 12: Western façade of 522 Railway Parade showing dense tree planting



Figure 13: Western façade of 522 Railway parade showing dense tree planting.

Agency's Consideration

The agency notes that the affected dwellings are all constrained by their southern and south-western orientations resulting in self-shadowing. They are also located to the south of, and down the hill from, the Hurstville City Centre, an area of very high densities. As such the sites are considered to be highly vulnerable to overshadowing impacts.

In relation to the dwellings at 538 and 540 Railway Parade, the agency accepts that a reasonable level of amenity will be retained to the rear yards, despite the additional overshadowing caused by the proposed modification. In mid-winter large portions of the gardens (between 25m² and 150m²) will be in sunlight for the majority of the day. As such there will be ample opportunity to enjoy the gardens in sunlight for passive and active recreation and clothes drying.

In relation to 522 Railway Parade, the agency considers that although the living rooms and balconies would have a further reduction to already very limited solar access under the modification, the amount of sunlight lost compared to the approved development is not extensive (around 10-30 minutes at mid-winter for each of the balconies). If existing shadowing from the trees were taken into account, the impacts would be even more marginal. More importantly however, the agency notes that the affected apartments are all cross-through apartments and all incorporate large windows on the north-eastern façade providing good levels of solar access to the adjoining bedrooms and kitchens. These windows are the main source of sunlight to the dwellings and the solar access to these windows will not be diminished by the proposed modification. The overall quality of sunlight to the dwellings is therefore not considered to be substantially reduced by the proposed modification.

The agency also considered the reasonableness of the proposal, the extent of impacts arising from non-compliance with planning controls, and whether a better design could deliver the same development potential with reduced impacts. In this case it is acknowledged that the overshadowing impacts arise from non-compliance with local planning controls in relation to height and density. However, as discussed in **Section 5.1**, the proposal is considered to be reasonable in the context of surrounding development, despite non-compliance with those controls.

The agency considered whether amendments could be made to reduce impacts to the dwellings at No 522. It was found that in order to ensure the proposal resulted in no additional impacts at mid-winter, virtually all of the western section of the additions would need to be deleted (refer **Figure 14**). This equates to more than half of the proposed additional floor space (or 27 apartments) and would result in an inferior design and awkward appearance to the building as well as a reduced development potential.

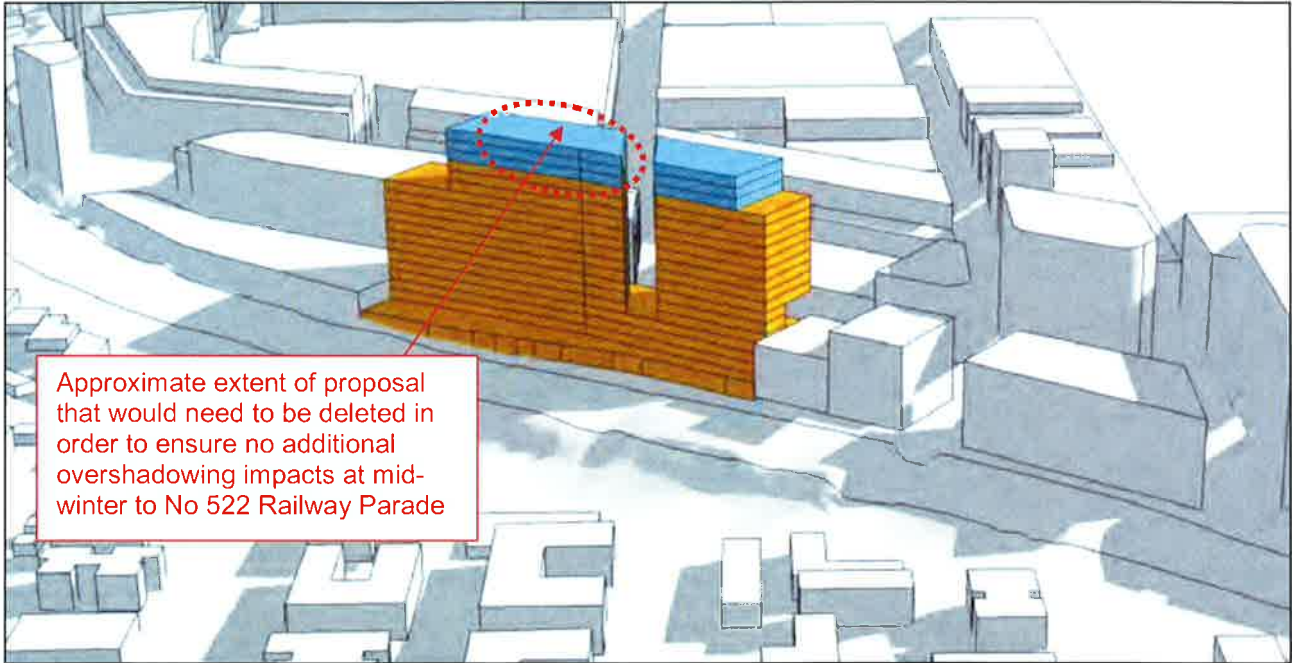


Figure 14: Extent of modification that would need to be deleted.

Having regard to all of the above issues, the extent of the overshadowing impacts is considered to be acceptable. The impacts are considered to be relatively minor, affecting a limited number of dwellings for short timeframes. Affected gardens will still receive reasonable amounts of sunlight to provide amenity for the occupants. The dwellings that will lose sunlight to living rooms and balconies will still receive solar access to other rooms, thereby ensuring a reasonable level of amenity despite the vulnerability of the sites arising from their location and orientation. On balance, the overshadowing impacts are considered to be minor, and when considered in light of the strategic planning objectives of increased residential densities close to services and public transport in an area characterised by high density development, are well justified and as such the modification is supported.

5.3 Car Parking and Traffic

Car Parking Provision

The application seeks to substantially increase the amount of parking provided on site from approximately 336 approved spaces to 472 spaces, an increase of 136 spaces. However, using the method for calculating parking as previously adopted by the PAC in its assessment of the original application and in accordance with term of approval A8, only 375 spaces would be required for the modified proposal, resulting in a surplus of 97 spaces.

The original Concept Plan application proposed a reduced rate of parking as compared to the controls set out in Hurstville DCP 2 (around 30% less parking than recommended by the DCP). The agency was supportive of a reduced rate of parking due to the proximity of the site to public transport.

In its assessment of the application, the PAC gave careful consideration to the parking rates to be imposed. This included a review of Hurstville Council's existing parking rates in comparison to rates in similar major centres and RMS (then the RTA) subregional criteria. The PAC concluded that the residential parking requirements contained within the Hurstville Council DCP No. 2 were

compatible with the RMS guidance and should be applied without a reduction in parking. However in terms of retail parking, the PAC considered it appropriate to apply Burwood Council's parking requirements for retail development (1 space per 50m² of floor space) given the similarity of Burwood town centre to Hurstville town centre. On that basis it supported the reduced rate for retail parking proposed by the proponent. The PAC accordingly imposed Term of Approval A.8, requiring that residential parking be provided in accordance with Hurstville DCP 2 and that at least 79 spaces be provided for the retail use.

In its determination of Modification 1, the agency applied the same rate as that approval (that is 1 space / 50m² of floor space) to the amended retail floor space and to the proposed community floor space. Term of Approval A8 was updated to reflect these figures - being 30 spaces for the retail use and 5 spaces for the community use.

The agency again accepts this rate for the purpose of considering the current modification request. In this regard it is also considered appropriate to apply the same parking rate to the proposed child care centre use as the retail and community uses. The main reason for this is to allow for flexibility in the use of the floor space and ensure there is sufficient parking provided on site to accommodate any such change in use. Refer to more detailed discussion in relation to the proposed child care centre use in **Section 5.4** below.

Table 1 illustrates the number of parking spaces required for the development as currently approved as well as the parking requirements and those proposed for the modification request.

Table 1: Approved and Proposed On-site Car Parking

Land Use	Approved Parking Rates / number of spaces	Proposed in current modification	Recommended by agency (as per approved parking rates)
Residential	As per DCP 2: 1 space /100m ² of leaseable floor area 23,015m ² = 230	349 (equates to 1 space per 74m ²)	25,784m ² = 258
Residential Visitor	As per DCP 2: 1 space / 4 units 283 units = 71	328 units = 82	328 units = 82
Retail	1 space per 50m ² 30	1 space /25m ² +1extra= 21	687m ² = 8
Community	1 space per 50m ² 5	1 space /25m ² = 8	200m ² = 4
Child Care	n/a	1space /2 staff & 1 space / 10 children = 12	1 space per 50m ² 1,151m ² = 23
TOTAL	336	472	375

As can be seen in the table, the proponent is seeking almost 100 spaces more than is necessary for the proposed development. This is in part because it has considered the residential DCP 2 control as a minimum requirement, and because it has applied the parking controls in DCP 2 to the retail, community and child care uses, rather than the rate already approved.

The agency does not support this increase in car parking for a number of reasons:

- Increased parking results in increased traffic and congestion impacts (refer to discussion below);
- A reduced parking rate is consistent with strategic planning objectives to reduce reliance on car travel and increase public transport use, especially within major centres with excellent access to public transport, such as Hurstville;
- The PAC previously gave detailed consideration to appropriate parking rates for the site and which remains relevant today; and
- The increased parking results in adverse street activation and amenity impacts: refer to detailed discussion in **Section 5.5** below.

The agency also notes that the figures in DCP 2 are not minimum figures and the provision of additional spaces would therefore not be in accordance with the current DCP. The agency notes that on 3 April 2014, Hurstville Council resolved to exhibit an amendment to the DCP to amend the parking rates in the city centre. As the amendment has not yet been exhibited or adopted, the agency has not considered the future draft DCP in this assessment.

It recommended that term of approval A8 be retained in its current form, with amended figures to reflect the changed retail, community and child care floor space as per the final column in Table 1. An additional clarification is also recommended to ensure that car parking is calculated in accordance with the current DCP controls.

Traffic

Council's submission reiterated its concerns raised previously in relation to traffic still apply. The public submission also raised traffic congestion in the city centre as a concern. The PAC in its original assessment also noted that traffic congestion is a major concern for Hurstville City Centre.

The proposed modification has been accompanied by a Traffic and Parking Impact Report. The report estimates that the modified development will result in approximately 155 and 157 traffic movements at the AM and PM peak hours, respectively. This compares to an estimated 111 and 137 trips under the existing approval, equating to an additional 44 and 20 am and pm peak trips respectively. However, the calculations are based on unit numbers and floor space (as per the RTA Guide to Traffic Generating Development) and do not take into account the fact that the proposal incorporates significant additional on-site parking beyond that expected under the approved rate (and beyond that expected in CBD centres under the RTA guidelines on which the traffic assessment is based). The agency considers that additional vehicle trips generated by the additional residential units are acceptable and as demonstrated in the Traffic Assessment, are unlikely to result in a significant deterioration to intersection and road network performance.

However, the 97 additional parking spaces on the site may result in additional traffic movements beyond the estimations provided. Therefore to minimise additional traffic congestion impacts, and for the reasons already set out above, the recommendation does not include approval of these additional parking spaces.

Green Travel Plan

The existing statement of commitments provides that a Green Travel Plan will be developed for the Project Application stage. The commitment includes a range of initiatives, but relevantly includes:

- Bicycle storage, showers and changing facilities for employees and bicycle storage for residents;
- Provision of a small commuter vehicle to transport elderly and infirm residents to Hurstville railway station and for local shopping trips etc. to the CBD; and
- Co-ordinated car share scheme

The proponent is seeking to amend the commitments to clarify the staging of bicycle parking and shower facilities with separate requirements for the child care centre use in stage 1 and retail uses in Stages 2 and 3. It is also seeking to change the commitment to provide the commuter vehicle to a commitment to investigate the provision of the commuter vehicle. The car share scheme commitment is proposed to be changed to a commitment to investigate the promotion of a scheme.

Due to the concerns over the potential for a child care use to be provided onsite as discussed below in **Section 5.4**, it is considered that the proposed modification to the statement of commitments overly complicates the future provision of bicycle facilities, especially if the ground floor is ultimately used for retail purposes. Further, it is considered that what the proponent is trying to achieve in terms of staging of the provisions, can still be achieved under the current commitment. Finally, given that the proposal results in a significant increase in residential density as compared to the originally approved development, the need for a commuter vehicle and car share scheme on the site is increased under the proposal. As such the proposed amendments to the commitments already incorporated into the concept approval are not supported and it recommended these modifications not be adopted in the modification instrument.

5.4 Proposed Child Care Centre use

The modification includes a partial change from retail use at the ground and first floor level to a child care centre use.

The agency raised a concern with the proponent that the national regulations for child care centres require a certain amount of outdoor space to be provided as part of child care centres (7m² per child), and it does not appear that the site is capable of meeting those requirements.

The proponent responded that any open space issues would be resolved at a future DA stage, and that if a child care centre was not to proceed there would be a number of other possible uses that could occupy the area in lieu of a child care facility.

The recommendation therefore includes modified terms of approval that allow for flexibility between retail or a child care centre use at future DA stages. It is also recommended that parking rates be applied to the child care centre use at the same rate as applied to retail use to facilitate this flexibility in the future.

5.5 Proposed changes to ground floor level and new mezzanine

The modification request makes a number of changes to the layout at the ground floor level and also includes a new upper ground floor or mezzanine level with some associated minor adjustments in floor levels to accommodate the additional floor. The new mezzanine level is mostly for the provision of parking (20 vehicles and 1 small loading bay), but also includes 133m² of floor space for the child care centre and a small waste storage area. The plans also include substantial changes to the ground floor level layouts, not only replacing retail areas with a child care centre, but provision of new substations and deletion of on-site loading and waste collection areas.

The provision of a mezzanine for 20 parking spaces is considered to be unnecessary as the indicative plans include an oversupply of parking (in the order of 97 spaces) as discussed above in **Section 5.3**. It is also contrary to accepted urban design principles and the local controls in Hurstville DCP 2 which require that parking be provided at basement levels.

In addition, the proposed mezzanine level results in reduced floor to ceiling heights for part of the ground floor level below, resulting in reduced amenity and being contrary to the Residential Flat Design Code which recommends minimum floor to ceiling heights of 3.3 metres at the ground and first floor levels in mixed use buildings.

The provision of the vehicle access ramp to the mezzanine level also results in the deletion of the vehicle access previously proposed to the ground floor level and deletion of the associated loading docks and on-site waste collection areas, such that waste would now need to be taken to the street for collection (refer **Figures 15 and 16**). It is considered essential for the amenity of the locality that waste collection be carried out entirely within the building envelope. It is also considered essential that adequate loading facilities be provided in order to support the use of the ground floor

not only for a use as a child care centre, but also for retail uses, to ensure flexibility of the floor space in the longer term.

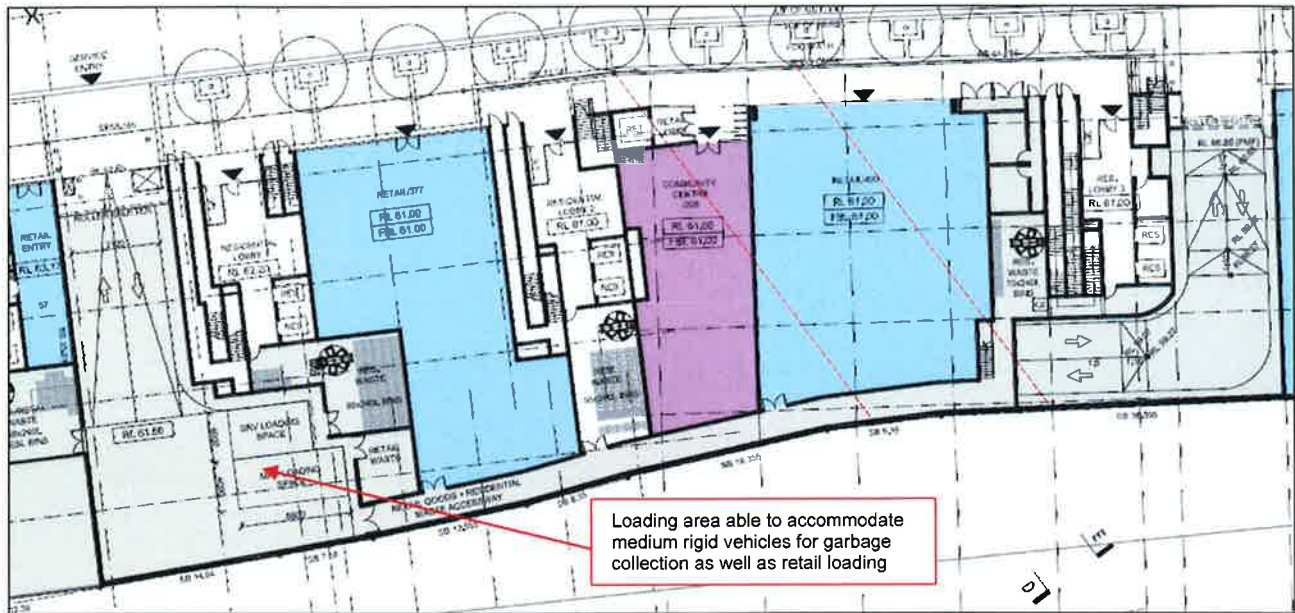


Figure 15: Stage 1 ground floor as approved



Figure 16: Stage 1 ground floor as proposed

In terms of loading and waste collection, the agency considers that, dependent upon final ramp and basement design, it may be possible to provide such areas at the basement level, noting the spare capacity arising from the reduction in parking numbers from that shown on the plans (as discussed in **Section 5.3**). This would negate the need for the second vehicular entrance to the site and would substantially improve the ability of the site to provide active street frontages at the ground floor level. In this regard it is noted that the current modification request results in a reduction in active frontages by 10 metres (from approximately 41% of the frontage as retail use to 33%). As such it is appropriate that further consideration be given to improving floor plan layouts to maximise street activation and thereby improve the amenity and security of the area. Even if the ramp and basement levels were not able to be designed to accommodate loading at the basement level, the agency considers that there are other opportunities within the current indicative floor plans to improve street activation.

These matters can be resolved at the detailed design phase as part of future development applications. A future environmental assessment requirement is therefore recommended that future applications be accompanied by amended floor plans which are demonstrated to maximise ground floor street activation, delete mezzanine car parking, provide adequate on-site loading bays to service all non-commercial uses and residential waste collection entirely within the building envelope, and investigate the potential to provide such loading areas at the basement level.

5.6 Residential Amenity

The project is a Concept Plan only, however, the indicative dwelling layouts within the proposed modification remain virtually identical to layouts considered and assessed previously. Those layouts were 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). They were found to be 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.

5.7 Developer Contributions and Planning Agreement

Future Environmental Assessment Requirement 9 requires that developer contributions be paid in accordance with the Contributions Plan current at the time of future DAs.

However, during the assessment of this modification, the proponent approached Council with a view to enter into a Voluntary Planning Agreement (VPA). Negotiations with Council were not successful, with Council rejecting two offers made by the proponent.

However, the proponent's solicitor subsequently advised the agency that the proponent's offer of \$540,000 (which is in addition to Section 94 contributions payable under future environmental assessment requirement 9) remains open. This was formalised with a letter of offer and draft planning agreement submitted on 14 February 2014. A copy of the offer is provided at **Appendix E**. The \$540,000 would go to Council to invest in providing additional infrastructure for a public purpose.

The agency considers that the provision of infrastructure funding in addition to the s94 contributions would provide a significant public benefit to the locality.

Although the Council has not been supportive of the application including the proposed VPA, a term of approval is recommended, which requires the proponent to use its best endeavours to enter into a VPA with Council in accordance with the offer and draft Planning Agreement. This will enable Council to take up the offer in the future if it so wishes.

6. CONCLUSION

The agency has carried out an assessment of the proposed modification of an approved Concept Plan to increase height and floor space and to make changes to parking and ground floor uses.

Although Hurstville Council object to the proposal on the basis that it results in a further deviation from Council's intended height and floor space controls, the agency is satisfied that the proposal is acceptable in terms of height and floor space and will result in net overall benefits to the area in terms of increased housing provision, without any adverse visual impacts, and with only minor overshadowing impacts.

The agency is supportive of an increase in parking spaces, however only in accordance with the approved rate to the extent necessary to support the additional dwellings and non-residential floor

space. The agency is also supportive of the proposed change in use from retail to child care, but recommends that the approval allow for flexibility in future uses. The agency does not support the provision of the proposed new mezzanine level parking and recommends a future assessment requirement to delete this level, improve on site loading and waste collection facilities, and improve street activation.

Subject to the imposition of appropriate terms of approval and future assessment requirements to ensure flexibility, appropriate parking, including deletion of mezzanine parking and improvements to loading and street activation, the agency considers that the proposed modification to the Concept Plan is acceptable and capable of delivering net benefits to the community by way of increased housing provision and increased local infrastructure funding, without any unacceptable amenity or traffic impacts.

7. RECOMMENDATION

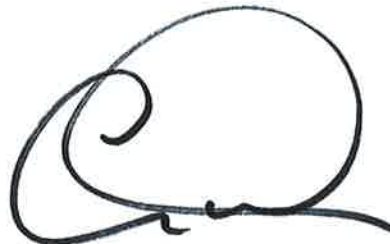
It is RECOMMENDED that the Planning Assessment Commission, as delegate for the Minister for Planning and Infrastructure:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request, subject to conditions as set out in the attached Instrument of Modification; and
- (c) **sign** the attached modifying instrument (**Appendix F**).

Endorsed by:



Daniel Keary
Director
Industry, Key Sites and Social Projects



Chris Wilson
Executive Director
Development Assessment Systems & Approvals

9.9.14