



**Planning &
Infrastructure**

***Modification Request
7 – 17 Elsie Street & 45 – 49 George
Street, Burwood (MP07_0076 MOD 1)***

**Modification to Residential Flat Building
Development**

September 2011

© Crown Copyright 2011
September 2011
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document

1. THE SITE

Cadamous Pty Ltd ('the Proponent') has lodged an application (MP07_0076 MOD 1) to modify Concept Plan Approval MP 07_0076 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ('the Act'). The application seeks approval to convert unutilised plant room to residential floor space, within the 3 approved residential towers.

The subject site, 7-17 Elsie Street and 45-49 George Street Burwood (Lot 1 DP 802959), is located within the Burwood Town Centre, approximately 9.5km south-west of Sydney. Burwood Town Centre has been identified within the Metropolitan Plan for Sydney as a Major Centre. Figures 1 and 2 below illustrate the location of the subject site.

The site lies within walking distance of shops and transport linkages. Burwood train station is located approximately 150m south-east of the site and public bus services operate along Burwood Road, approximately 80m east of the site.

Development surrounding the subject site is dominated by retail and commercial development to the east and south, and high density residential development to the north and west.

The approved mixed use development is currently under construction.

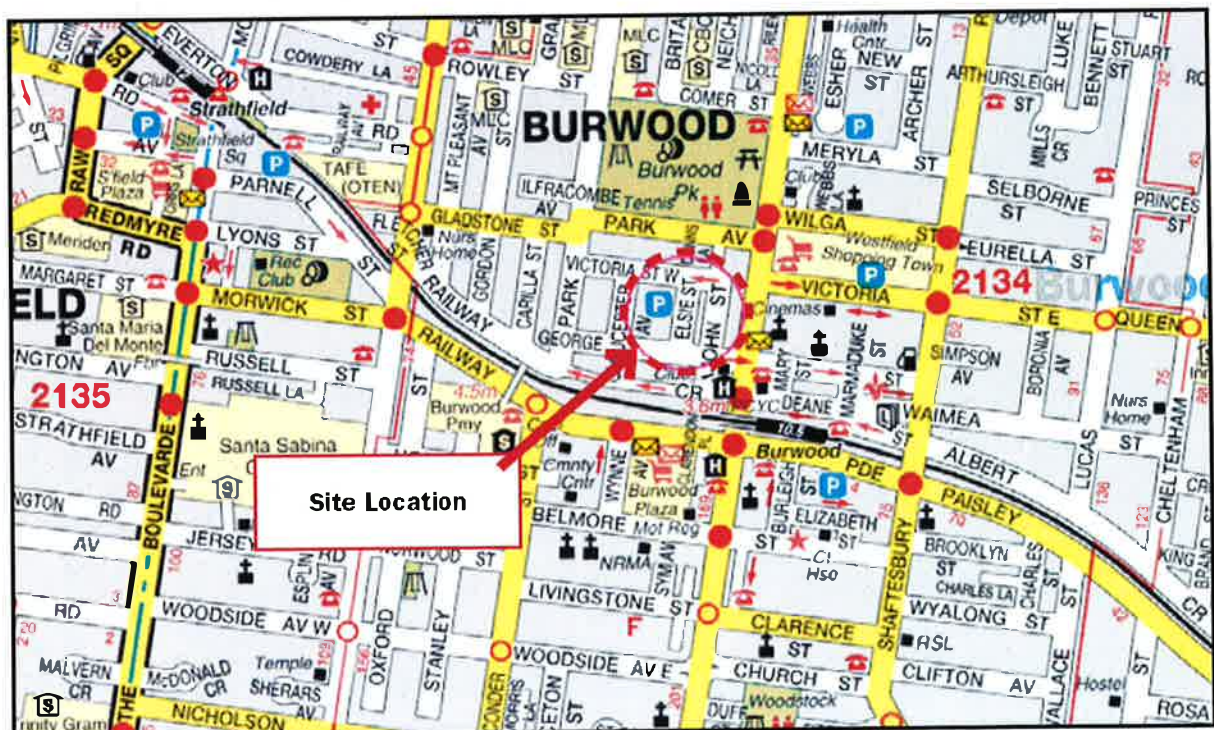


Figure 1 - Site Location



Figure 2: *The site in context of surrounding development.*

2. MAJOR PROJECT APPROVAL

Major Project Application

On 2 March 2009, the then Minister for Planning approved a Concept Plan for:

- construction of three (3) residential apartment buildings with heights ranging between 14 storeys (Tower A), 9 storeys (Tower B) and 13 storeys (Tower C) over an approved and constructed commercial podium;
- alterations to the ground floor;
- lift entries and lobbies from residential parking levels through to each tower;
- a maximum of 210 residential units; and
- 115 additional car parking spaces totalling 672 car parking spaces within the existing basement comprising 205 spaces dedicated for public car parking, 233 residential spaces and 230 commercial spaces.

The Concept Plan approval required no further environmental assessment of the proposal.

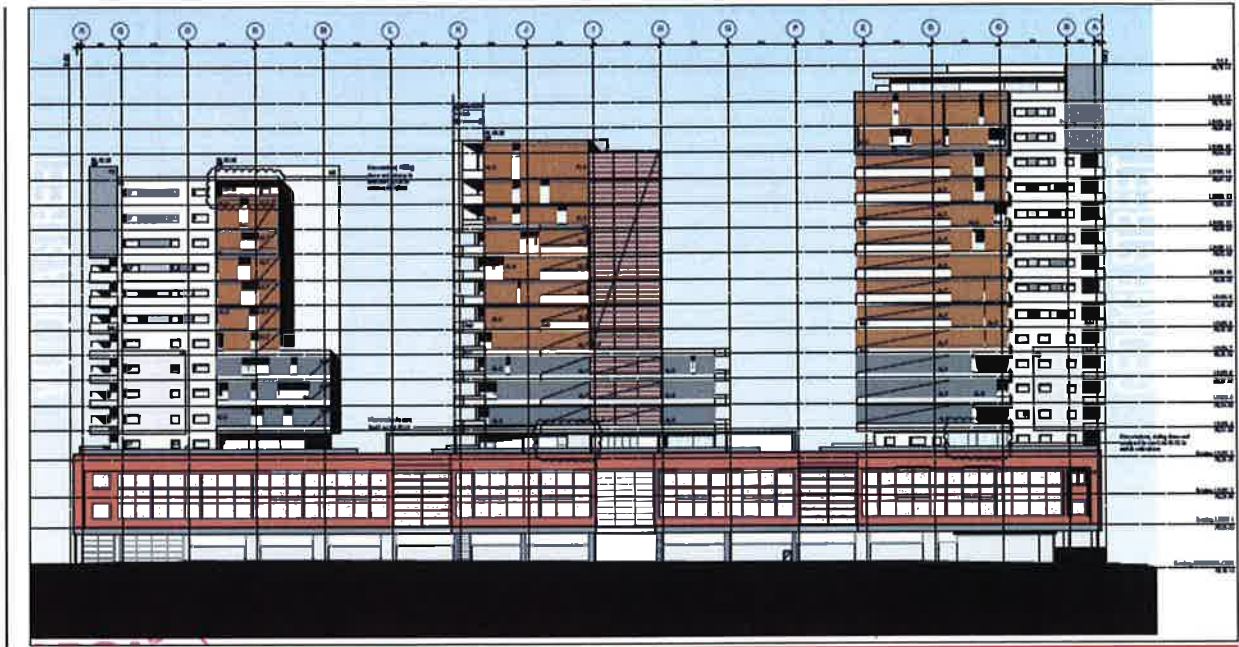


Figure 3: The approved 3 residential towers

Independent Hearing and Assessment Panel (Panel)

On 12 May 2008, the then Minister for Planning appointed an Independent Expert Panel known as the Independent Hearing and Assessment Panel (IHAP), under Section 75G of the EP&A Act to assess and make recommendations on key issues of the project.

On 30 May 2008, the Panel held a Public Hearing to enable the public to make representations. A total of 4 individuals and groups presented their views to the Panel.

On 18 September 2008, the Panel requested additional information from the Proponent on issues including building separation, building depth, setbacks, FSR, car parking and SEPP 65. These issues were addressed in the Preferred Planning Report (PPR) submitted to the Panel for review.

On 19 December 2008, the Panel submitted its final report and raised no objection to the project subject to:

- a 24m building separation between towers A and B and B and C above level 6. These amendments sought to improve the building relationship and its visual appearance when viewed externally from the site and enables solar access to approximately 70% of units; and
- widening of Victoria Street footpath to allow safe pedestrian access.

The Department subsequently recommended approval of the Project subject to conditions, including increasing building separation and widening the Victoria Street footpath, consistent with the Panel's recommendation.

3. PROPOSED MODIFICATION

This modification seeks approval to use unutilised plant room on levels 3 and 13 within the approved residential towers (Buildings A, B and C) as residential floor space. This will result in three additional 1 bedroom units and conversion of a 2 bedroom unit to a 3 bedroom unit as detailed below:

Building	Level	New bedroom	New Unit	Total
A (Unit A3.02)	3		1 single bed unit	58m2
B (Unit B3.01)	3	Enlarge 2 bed unit (101.4m2) to make 3 bed unit (110.3m2)		8.9m2
C (Unit C3.06)	3		1 single bed unit	73.3m2
C (Unit C13.05)	13		1 single bed unit	51m2
Total GFA				191.5m2

The proposed changes involve an increased residential FSR of 0.02:1 (1%) from 3.32:1 (as approved) to 3.34: 1.

The proposed conversion of plant room to residential floor space results in minor modifications to the external appearance of the three residential towers. Changes to the built form and external appearance of the towers include the introduction of windows, doors and open balconies and courtyard areas in place of blank wall lengths (to plant areas) as originally approved. The proposed modification will not change the height, bulk or scale of the approved residential towers.

Refer to Appendix A for a comparison of plans and elevations between the approved Project Application and the Section 75W proposal.

4. STATUTORY CONTEXT

4.1 Modification of the Minister's Approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including "*revoking or varying a condition of the approval or imposing an additional condition of the approval*".

Consequently, the Minister is the approval authority for the proposal. However, the Planning Assessment Commission may determine the application on the Minister's behalf under delegation.

4.2 Environmental Assessment Requirements (DGRs)

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

5. CONSULTATION AND EXHIBITION

Under Section 75W of the Act, a request to modify an approval does not require public exhibition. However, under Section 75X (2) (f) of the Act, the Director General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the application to modify the approval was made publicly available on the Department's website. No submissions were received from the public.

Burwood City Council was notified of the proposal in writing. Council objected to the modification on the basis that it increases the FSR of the proposal beyond the Burwood Local Environmental Plan 2010 FSR control and the approved FSR. Further, Council is concerned that the modification will create a precedent for other development within the town centre by converting non habitable to residential floor space.

6. CONSIDERATION OF PROPOSED MODIFICATIONS

The Department considers the key issues associated with this modification to be:

- floor space ration (FSR);
- residential amenity;
- privacy;
- car parking;
- visual impact; and
- contributions.

Floor Space Ratio

Burwood Council raises an objection to the proposed increase in Gross Floor Area (GFA) and the resultant increase in FSR. The Burwood Local Environmental Plan (Burwood Town Centre) 2010 (BTC LEP) sets a maximum FSR of 3.0:1 for the residential component of the proposal. The modification proposes to increase the FSR from 3.32:1 to 3.34:1 or 1.01%.

Clause 4.6 of the BTC LEP enables planning controls to be varied. However, development standards within LEPs are not required to be strictly applied for Part 3A projects. Notwithstanding, the Department has undertaken a merit assessment of the additional GFA and resultant increase in FSR.

The Department considers that the proposed quantum of additional floor space represents a minor non-compliance with Council's FSR control. The additional floor space will be wholly contained within the approved building envelopes. As a result, the proposed modification will not alter the height, bulk, scale or setbacks of the approved buildings. Further, the proposal will not create any unreasonable amenity impacts in terms of overshadowing, loss of privacy or views or adverse visual impacts.

The proposal will not result in any adverse traffic impacts as no additional car parking spaces are proposed. Sufficient on site parking currently exists to cater for any additional demand and the site is within walking distance of train and bus services within the Burwood Town Centre.

The proposal is also consistent with the aims and objectives of the Subregional Strategy for the Inner West Subregion, which seeks to increase housing densities close to jobs and existing public transport infrastructure. The Department also considers that the proposal will not set a precedent as it remains generally consistent with the development as previously approved, the variation is minor, and on merit, is acceptable in this particular instance. The proposed increase in FSR is therefore supported.

Residential amenity

The proposed changes comply with the requirements of SEPP 65 and the guidelines under the Residential Flat Design Code. The increase in gross floor area will not alter the building separation distances, depth or setbacks. The proposed development will still meet the minimum requirements for solar access (>80%) and natural ventilation (67%). The modified proposal will therefore still provide adequate residential amenity for future occupants.

Privacy

It is proposed to modify the western and southern elevations of the approved building A, B and C at level 3 and approved building C at level 13, with the introduction of windows, doors and open terraces in place of blank wall lengths (to plant areas) as originally approved.

The Department considers this modification to be acceptable as adequate privacy to adjoining and surrounding properties will be maintained without a need for additional privacy measures. In this regard, there is no proposed change to separation distances or setbacks (to the western boundary) as approved. The existing condition of consent (E3 – Landscaping) is adequate to minimise privacy impacts for residents within adjoining properties to the west.

Car parking provision

There are no additional car parking spaces proposed by this modification application. The current modification provides for an additional 191.5sqm of residential floor space which based on the Council's consolidated DCP parking rates, would require an additional 3 car parking spaces and 0.5 spaces for visitors.

The Department however notes the existing 668 parking spaces provided by the original approval include 115 residential parking spaces. The total parking figure (668 spaces) consists of 230 commercial, 205 public car park and 115 resident spaces. No visitor parking was approved as part of the original approval due to the existing quantum of parking and 205 space visitor car park.

Accordingly, the Department considers the existing development has already provided for increased parking supply (for both residents and visitors) to accommodate the marginal increase in demand (approximately 2.6% of the approved 115 parking spaces) that may be generated by the proposed modification.

Further, the Department considers that the anticipated vehicle dependency will be influenced by the availability and proximity of alternative public transport options (bus and train) within the Burwood Town Centre to the existing development. The Department notes bus and train options are within walking distance of the development which will provide alternative public transport options. For these reasons the Department considers that the requirement to provide 3.5 additional parking spaces to be unnecessary and that the proposed on site car parking will be adequate.

Visual Impacts

The Department considers this modification to be acceptable as the proposed changes to the fenestration visually integrate with the existing architectural treatment and are acceptable in context of the approved development. The Department considers the creation of new openings including balcony and terrace areas will have a minor impact on the appearance of the approved facades. All external changes are consistent with the approved façade treatment and design intent and is therefore supported.

S.94 Contributions

The new units will attract additional Section 94 Contributions. Council advise their current Section 94 rates, indexed to December 2010, are as follows:

- 1 Bed = \$8,410.76
- 2 Bed = \$13,069.54
- 3 Bed = \$19,475.35

The proposed 3 x 1 bed units, plus conversion of a 2 bed unit to a 3 bed unit, would therefore generate an additional contribution as follows: $(\$8,410.76 \times 3) + (\$19,475.35 - \$13,069.54) = \$31,638.09$. A new condition **E19** is recommended accordingly.

7. CONCLUSION

The Department has assessed the application on its merits and the proposed modification is considered to be reasonable and will not result in any significant changes to the development as approved.

The Department is satisfied the modifications to levels 3 and 13 to provide habitable floor space is minor and will not impact upon the appearance of the overall development or amenity of neighbouring properties. Further, the Department is satisfied that sufficient car parking spaces have been provided to cater for any additional demand, noting the site is located within proximity of train stations and bus services and other public parking options on site.

The proposed development remains consistent with the terms of MP 07_0076 and is considered to be acceptable. It is therefore recommended that the application be approved.

8. RECOMMENDATION

It is recommended that the Planning Assessment Commission:

- (a) **Consider** the findings and recommendations of this report;
- (b) **Approve** the modification request under delegated authority, subject to conditions; and
- (c) **Sign** the attached Instrument of Modification for MP 07_0076 MOD 1.




30/9/2011

Michael Woodland
Director
Metropolitan & Regional Projects South



4.10.11

Chris Wilson
Executive Director
Major Projects Assessment



Richard Pearson ~~Marcus Ray~~
A Deputy Director-General
Development Assessment & Systems Performance
05/10/11