

ASSESSMENT REPORT

SENIORS LIVING DEVELOPMENT 34-36 MEMORIAL AVENUE, KELLYVILLE MP 09_0180 (MOD 7)

1. INTRODUCTION

This report is an assessment of a request to modify the Project Approval MP 09_0180 for the construction of a seniors living development at 34-36 Memorial Avenue, Kellyville. The request has been lodged by BaptistCare NSW & ACT (the Proponent), pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to modify the design of the approved buildings in Clusters 2, 3 and 4, increase in on-site car parking and other associated changes.

2. SUBJECT SITE

The site is located on the southern site of Memorial Avenue, approximately 40 km northwest of the Sydney CBD and within the Hills Shire local government area (**Figure 1**).



Figure 1: Site location

The site and surrounding area was rezoned for residential uses in 2006 and is in the process of being developed from low density rural residential uses to medium to high density residential development in accordance with the Hills Shire Local Environmental Plan 2012 (Hills LEP).

Most of the site has been developed in accordance with the Project Approval. This request relates to the remaining part of the site to be developed, known as Clusters 2, 3, 4, and 5.

The site is bound by Memorial Avenue to the north, Free Settlers Drive to the west, Rutherford Avenue to the east and Hodges Road to the south.



Figure 2: Aerial view of the site (base image source: Architectural Design Report)

3. APPROVAL HISTORY

On 16 February 2011, the Department granted approval for the construction of a seniors living development consisting of:

- a part 4, part 5 storey residential aged care facility (RACF) building with 128 rooms (160 beds) providing resident and staff facilities
- a Young Persons with a Disability Overnight Respite building (YPDOR)
- 7 cluster buildings providing 231 self-contained dwellings
- a day centre in cluster 7
- a community centre in cluster 7
- village club facilities in cluster 7
- basement and at-grade parking for 203 cars
- landscaping, including a managed open space park incorporating Cumberland Plain Woodland (CPW).

This proposal has been modified on six occasions, as outlined in **Table 1** below.

Table 1: Summary of approved modifications

MOD	Modification	Date Approved
1	Amendments to the timing of required intersection upgrade works	25 July 2011
2	Amendments to the required intersection upgrade works	4 September 2102
3	Increased on-site parking provision and associated amendments to basement parking footprints and levels	13 November 2012
4	Deletion of the YPDOR building and reconfiguration of the RACF building with associated amendments to landscaping, parking layout, vehicle access and stormwater drainage	2 July 2014
5	Modifications to the RACF building, including modification to roof profile and building height, modification to loading dock, ground floor layout and footprint, and one additional parking space	30 October 2014
6	Reconfiguration of Clusters 1 and 5, including reconfigured footprints and layout, increased building height to 5 storeys, increased floor area by 2,629m ² to 40,800m ² , increased number of units from 231 to 244, increased car parking by 27 spaces, amendments to landscaping.	13 April 2015

The approved site layout, following modification 6 is shown in **Figure 3**.

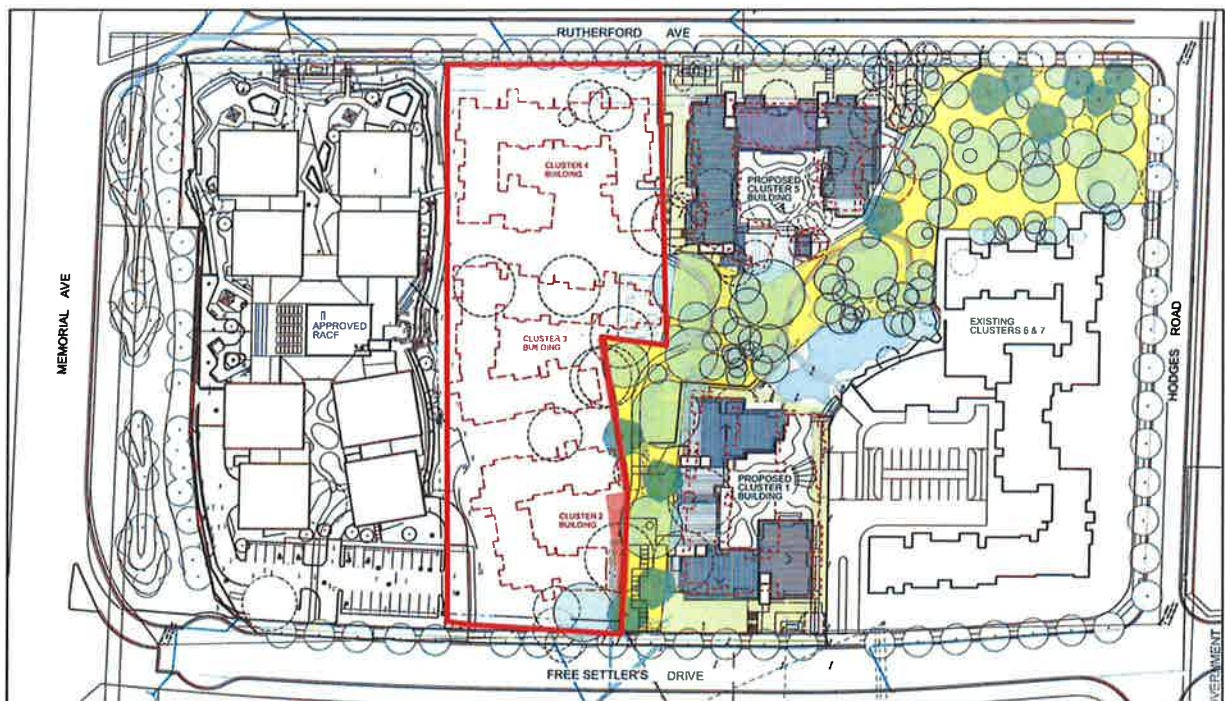


Figure 3: Approved site plans with clusters 2, 3 and 4 outlined in red (base image source: approved plans Modification 6)

4. PROPOSED MODIFICATION

The Proponent lodged a Section 75W modification request seeking approval to make changes to the design of the approved buildings within Clusters 2, 3 and 4. The proposal also seeks to reconfigure the basement carparking and provide additional on-site parking as well as make associated changes to landscaping.

The proposed modifications are summarised in **Table 2** and key design changes are illustrated in **Figures 4 to 10**.

Table 2: Summary of proposed modifications

Proposed Modification	Description
<i>Building Design</i>	Reconfiguration of the three buildings including: - Increasing the height from 4/5 storey buildings to 5 storey buildings - Reconfigured footprints and layout, removing internal courtyards and consolidating the footprints - Contemporary design presenting a stepped, modulated appearance to the street.
<i>Density and Unit Mix</i>	- Increase in total site floor space from 40,800m² to 41,697m² - Reduction in the number of independent living units (ILUs) by 3 units (from 91 to 88) in Clusters 2, 3, and 4 - change to the proposed unit mix from 12 x 1 bedroom; 62 x 2 bedroom; 19 x 3 bedroom to 0 x 1 bedroom; 43 x 2 bedroom; 45 x 3 bedroom.
<i>Basement Carparking</i>	- Reconfiguration of the basement carparking from part 2, part 1 storey carpark to a single level of basement parking and change to basement footprint - Access provided from Rutherford Avenue instead of Free Settlers Drive - Two options for parking: - Option 1: increase in car parking by 24 spaces (from 102 to 126) and reduction in accessible spaces from 26 to 7. - Option 2: increase in car parking by 20 spaces (from 102 to 122) and reduction in accessible spaces from 26 to 21. - Provision of basement level garbage storage and collection area with access from Free Settlers Drive.
<i>Landscaping</i>	- Associated amendments to landscaping, including change to the boundary of the CPW reserve on the site (but no change to overall area of the reserve) - Removal of one tree not previously approved for removal and retention of one tree previously approved for removal - Planting of 28 new trees on the site - Provision of additional hollows and management of hollows and nest boxes - Provision of an accessible path through the site from Free Settlers Drive to Rutherford Avenue.
<i>Other</i>	A new flight of stairs in Cluster 5 to link with exiting landscaping paths.



Figure 4: Photomontage of proposed development (source: application documents)

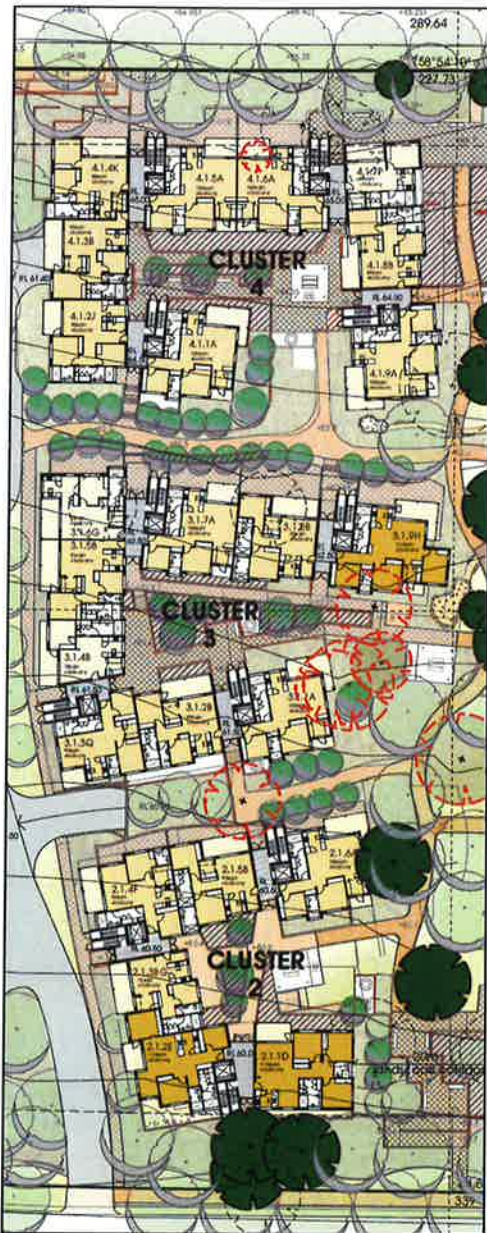


Figure 5: Approved building layout (left) and proposed building layout (right) (source: original Project approval plans and Mod 7 application documents)

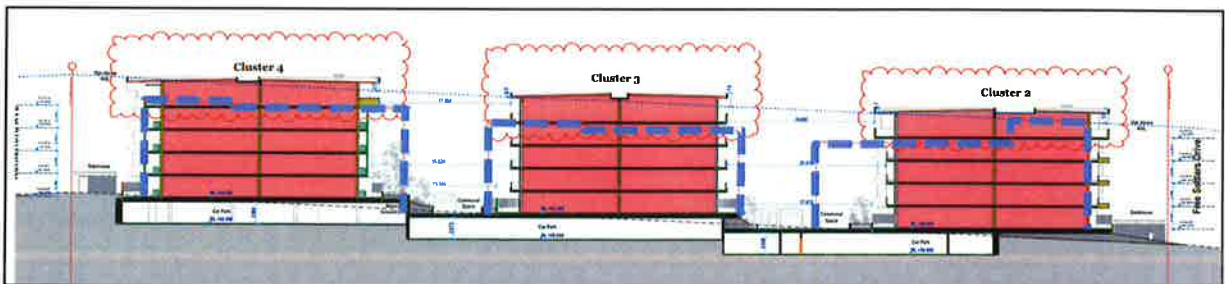


Figure 6: Section through the site with approved building envelopes outlined, indicating change in building height and location (base image source: Mod 7 application documents)



Figure 7: Approved elevation to Free Settlers Drive (source: approved plans)



Figure 8: Proposed elevation to Free Settlers Drive (source: Mod 7 documents)



Figure 9: Approved elevation to Rutherford Avenue (source: approved plans)



Figure 10: Proposed elevation to Rutherford Avenue (source: Mod 7 documents)

5. STATUTORY CONSIDERATION

5.1 Section 75W and Modification of a Minister's Approval

The project was originally approved under Part 3A of the EP&A Act. The project is a transitional Part 3A project under Schedule 2 to the EP&A (Savings, Transitional and Other Provisions) Regulation 2017. The power to modify transitional Part 3A projects under section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the 'cut-off date' of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply. 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 carrying out of the modification request under section 75W of the EP&A Act.

5.2 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Director, Regional Assessments may determine the request under delegation as:

- Council has not made an objection;
- a political donation disclosure statement has not been made; and
- no public submissions were received objecting to the proposed modification.

6. CONSULTATION

6.1 Consultation and Submissions

The Department made the modification request publicly available on its website, consulted with Hills Shire Council (Council) and government agencies, and notified surrounding landowners of the proposed modification.

Council did not object to the proposed modification but made the following comments:

- building separation (between clusters 2, 3 and 4 and also with exiting clusters 1 and 5) does not comply with the Apartment Design Guide (ADG) and should be increased to ensure suitable amenity
- consideration should be given to the shadowing impact of the additional building height on the open space areas including the Cumberland Plain Woodland
- further information is needed to assess the shadowing impacts of the proposal on adjoining buildings within the site and the impacts of existing buildings on the proposed buildings
- an acoustic assessment should be provided to inform mitigation measures to protect residents and adjoining premises from noise emanating from the waste servicing area
- further information is needed to demonstrate basement ramp headroom
- amendments to the parking design are required to remove or relocate shutters, to provide appropriate turning room, and locate disabled spaces near lifts
- If the boundary of the CPW is to change, a modification to the restriction on title is required
- consideration should also be given to
 - parking requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004,
 - the applicable Section 94 E Direction
 - changes to density on the site
- conditions are recommended in relation to basement protection from flooding, direction of runoff.

Office of Environment and Heritage (OEH) do not object to the proposed modification and recommends it be assessed in accordance with the Biodiversity Offset principles which applied to the original application including demonstrating impacts to native vegetation are avoided first, and if impacts are unavoidable, offsets are used to address remaining impacts. OEH also recommends any trees that are to be removed with hollows be sensitively dismantled,

protected and reused in the Cumberland Plain Woodland and nest boxes be monitored on an ongoing basis. OEH also requested provision of an overland flow assessment to assess the impacts of a flooding event on the site and surrounding area.

RMS advises it is satisfied the proposed increase in on-site parking and associated traffic impacts would be minor and adequately accommodated by the road system. It also notes the driveway to the servicing area may have potential for conflict with a nearby proposed van parking space.

Transport for NSW advised it has no comments

Sydney Water advised it has no comments

No **public** submissions were received.

6.2 Response to Submissions

On 16 April, 15 May and 4 July 2018 the Proponent submitted a Response to Submissions (RTS) and additional information to address the matters raised by Council and OEH, including:

- revised basement design including removal of a turntable for garbage trucks, and additional information on ramp grades and turning areas
- a revised stormwater management report including modelling of the overland flow path.
- additional information on tree removal, offsetting and management of nest boxes and hollows
- additional information on building separation and privacy, density and disabled parking spaces.

Council advises its previous concerns have been addressed, and it supports the revised basement layout.

OEH advises it supports the responses in relation to tree removal, offsetting, nest boxes and hollows. It recommended conditions to reflect the recommendations of the Proponent's ecology report. It also requested further information be provided on the management of a 10 m defendable space shown on the landscaping plan. OEH assessed the revised flooding information and recommended an emergency response plan be prepared to help ensure the safety of occupants in a large rare storm event.

7. ASSESSMENT

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original project
- all submission received on the proposal and the Proponent's response to the submissions
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers key issues in the assessment of the modification request relate to:

- urban design and visual impacts
- internal amenity
- Cumberland Plain Woodland impacts
- parking

The Department's assessment of other issues is set out in **Table 3**.

7.1 Urban Design and Visual Impacts

The key visual impacts associated with the proposal relate to the design changes to Clusters 2 and 4 and their appearance within the streetscape.

The Cluster 2 building has a primary frontage to Free Settlers Drive and would be visible from the street and the open space reserve opposite the site to the west. Compared to the approved building, the modified building would:

- be 1.6 metres taller than the approved building
- be similar in height to the building in Cluster 1 to the south and 2 stories taller than the RACF building to the east (see **Figure 11**)
- include a more contemporary façade design, presenting as three stepped modules, creating the appearance of three separate buildings (see **Figure 12**).



Figure 11: Proposed streetscape (western) elevation of proposed Cluster 2 to Free Settlers Drive with outline of approved building shown in red (*source: application documents*)



Figure 12 – Photomontage of proposed Cluster 2 within Free Settlers Drive (*source: application documents*)

The Cluster 4 building has a primary frontage to Rutherford Avenue and would be visible from the street and properties to the east of the site. Compared to the approved building, the modified building would:

- be one storey taller
- present an overall height at the street front similar to that of Cluster 5 to the south and 3 stories taller than the RACF building to the north (see **Figure 13**)
- present a significantly narrower façade to the street with increased setbacks to Cluster 5 and the RACF building
- include a more contemporary façade design, presenting as three modules, separated by

recesses, creating the appearance of three separate buildings (see **Figure 14**).

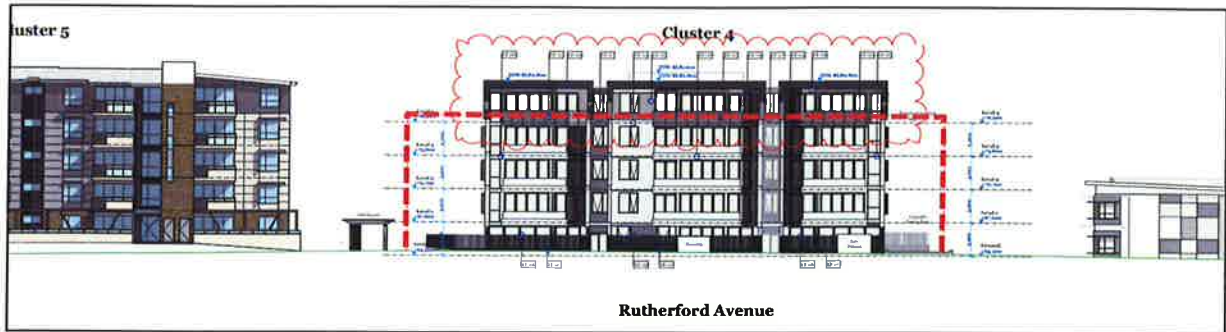


Figure 13 – Proposed streetscape (eastern) elevation of Cluster 4 to Rutherford Avenue with outline of approved building shown in red (source: application documents)



Figure 14 – Photomontage of Cluster 4 within Rutherford Avenue streetscape (source: application documents)

The Department considers the proposed design changes are acceptable as:

- the height of both building would be consistent with the height of adjoining buildings to the south (see **Figures 11 and 13**)
- both buildings present a contemporary stepped façade which ensures the buildings would be highly modulated and give the appearance of three slender buildings rather than a bulky single building
- the range of materials and finishes, including different treatment of the ground and top floors, further add to the visual interest of the building
- both buildings would have greater side setbacks than the approved development allowing additional landscaping to be provided
- the proposed front setbacks of both buildings would still allow for appropriate landscaping to be provided which would soften the appearance of the buildings from the street.

The Department therefore considers that overall the modified design and façade treatments respond well to the residential nature of the site and the likely future character of the surrounding area.

7.2 Internal Amenity

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Apartment Design Guide (ADG) do not apply to Seniors Housing developments, however as the development includes a large portion of ILUs which are similar to residential apartments in their layout and use, the Department has previously

considered the proposal against the guidelines for residential development under SEPP 65.

The Department's previous assessment concluded the development provided high levels of internal amenity, consistent with the design guidelines, except for some minor departures in relation to building separation and ground floor private open space.

In terms of internal amenity, Council noted:

- the proposed modification does not meet the guidelines of the ADG at the fifth-floor level, in terms of separation between proposed Clusters 2, 3 and 4, as well as separation with existing adjoining Clusters 1 and 5
- consideration should be given to overshadowing of open space areas and adjoining buildings due to building height exceeding the 16m control
- consideration should be given to the acoustic impacts from noise emanating from the waste serves area and noise insulation from Memorial Avenue.

The Proponent provided additional information in relation to privacy, overshadowing, and acoustic impacts. Council advised the response satisfactorily addresses the matters raised by Council.

The Department has considered the residential amenity associated with the revised proposal below:

Private Open Space

The proposal would increase the amount of private open space at the ground floor level of Clusters 2, 3, and 4, so that all apartments in these clusters would now comply with ADG private open space requirements.

Solar Access

The Proponent submitted shadow diagrams which demonstrate the modifications would result in some additional overshadowing of Cluster 4, but this would be offset by improved outcomes for solar access to Cluster 5. Overall, more than 70% of dwellings within the site would receive in excess of 2 hours of solar access mid-winter, consistent with the recommendations of the ADG. The shadow diagrams also demonstrate the proposal would not affect solar access to the adjoining RACF building, nor materially alter overall shadowing of open space areas. The Department therefore considers the modified proposal would be acceptable in terms of shadowing impacts.

Acoustic impacts

As approved, all waste would be collected from the street, with noise impacts for residents facing the street, as well as residences on the opposite side of the road. The proposed collection of waste from an enclosed basement would significantly reduce acoustic impacts. However, to ensure residents located immediately above the collection area are not adversely affected by collection activities and truck movements, a condition is recommended requiring appropriate acoustic treatment of the garbage collection area and restricted garbage collection times.

Existing condition B6 ensures the development will be designed to mitigate against road traffic noise from Memorial Avenue and ensure recommended internal noise levels will be met. The Department is satisfied that the recommended and existing conditions of approval would appropriately manage and mitigate potential noise impacts associated with the proposal.

Building separation

To minimise privacy impacts between apartments, the ADG recommends a minimum building separation of 12 metres for buildings up to 4 storeys in height and 18 metres for buildings 5 storeys and above. The proposed development complies with the separation requirements up to the fourth storey. However, the proposal does not comply with the 18 metre building separation requirement for the fifth storey, with building separation distances of:

- 12 m to 19.9 m between Clusters 2, 3 and 4

- 15.7 m - 17.0 m between Clusters 1 and 2
- 17.6 m - 17.7 m between Clusters 4 and 5.

Key separation distances are shown in **Figure 15**.

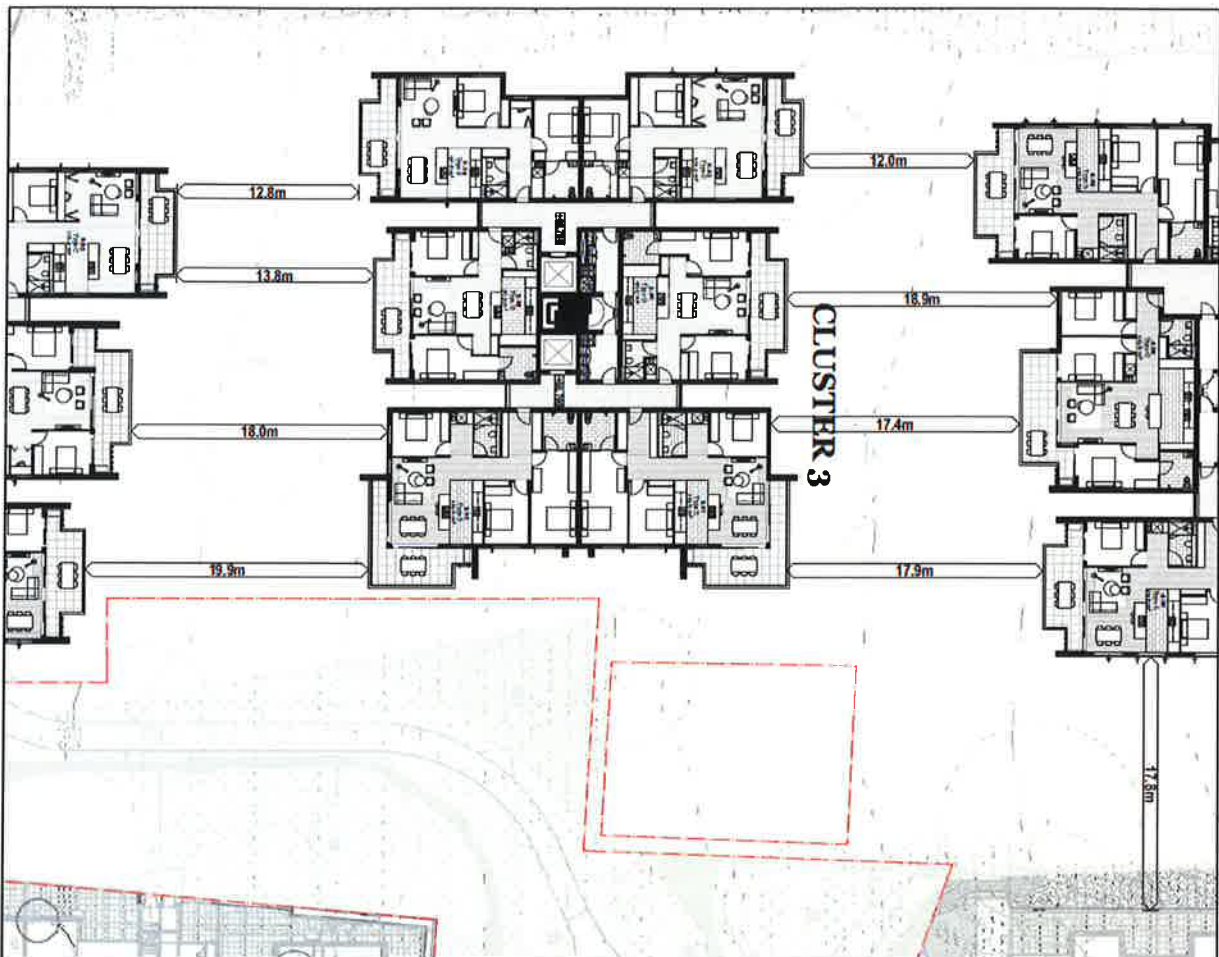


Figure 15: Site layout showing building separation on the site (source: application documents)

The Proponent considers the non-compliances are minor and would not result in adverse visual privacy impacts, noting that:

- most units at the fifth storey exceed or come close to complying with the ADG requirements for building separation
- due to the site topography, there is a height difference between each building resulting in the upper west facing units being elevated so that they are not overlooked
- the difference in height between units (due to the site topography) helps minimise direct overlooking
- balconies on the fifth level have solid balustrades
- all apartments would have internal window coverings.

The Department considers the proposal would result in improved building separation compared to the current approval. As approved, Clusters 2, 3, and 4 included a floor plan arrangement where units were separated by small internal courtyards, approximately 12 metres in width (**Figure 4**). The proposed floorplate removes the internal courtyard and consolidates the building footprint, resulting in improved separation and amenity outcomes for the units.

The revised building footprints also allow for improved separation between each of the clusters, including significant improvements for separation from Cluster 5 (from 8 -12 m separation as approved to 17.6 m as proposed). Given the generous building separation now proposed between Clusters 4 and 5, an existing condition requiring privacy measures to be provided

between clusters 4 and 5 is recommended for deletion.

The separation between the buildings also allows for significant tree plantings between each of the clusters (**Figures 5 and 16**) which will provide additional visual screening. The Department therefore considers the proposed modified layout, with improved building separation outcomes, would result in unacceptable levels of amenity and privacy for residents.

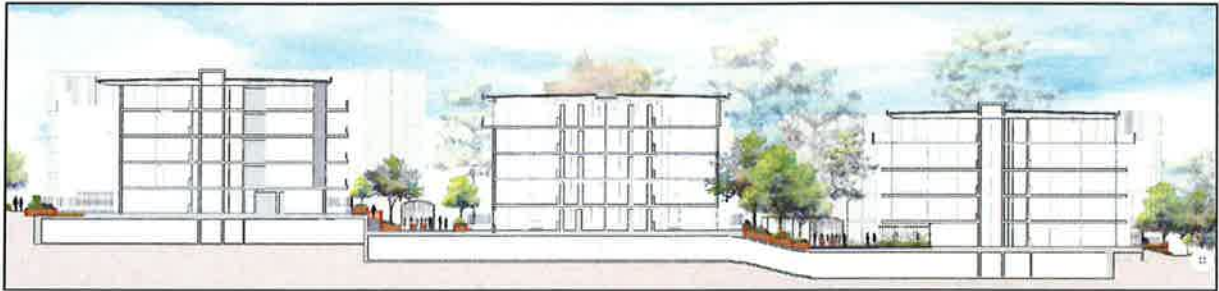


Figure 16: Section through the site showing proposed tree planting between the buildings (source: Mod 7 landscape plans)

The Department therefore considers the revised layout is consistent with the ADG guidelines and would provide a high level of internal amenity, noting that:

- the ground floor private open space would be improved
- overshadowing impacts would not change significantly, and the site would remain compliant with the solar access recommendations under the ADG
- acoustic impacts from the waste collection would be reduced under the modification and an existing condition ensures appropriate insulation from road noise
- building separation would be improved.

7.3 Remnant Cumberland Plain Woodland

An existing cluster of trees in the central and south-east part of the site represents remnants of the Cumberland Plain Woodland (CPW), a Critically Endangered Ecological Community. The approval requires the provision of an Open Space Park including the retention and revegetation of 0.56 ha of CPW, with a restriction on its use established through a Section 88B instrument requiring its ongoing protection to the benefit of the Hills Shire Council.

The Section 88B Instrument has been registered. However, it is proposed to be slightly altered to reflect the proposed changes to the building footprints. The change in the CPW boundary is shown in **Figure 17**. The overall size of the protected CPW area would remain unchanged at 0.56 ha as all boundary changes which reduce the CPW area (shown in yellow) are offset by other areas of increased CPW (shown in red). The changes to the boundaries of the CPW also do not affect tree retention within the CPW area.

The changes to the building footprints do require the removal of one additional CPW tree (a Narrow Leaved Ironbark) outside of the CPW zone, however, this would allow a significant Narrow Leaved Ironbark tree to be retained.

It is also proposed to provide a further 28 CPW trees as part of the proposed modification (in addition to offset planting already approved on the site) including nine new trees with the protected CPW zone.

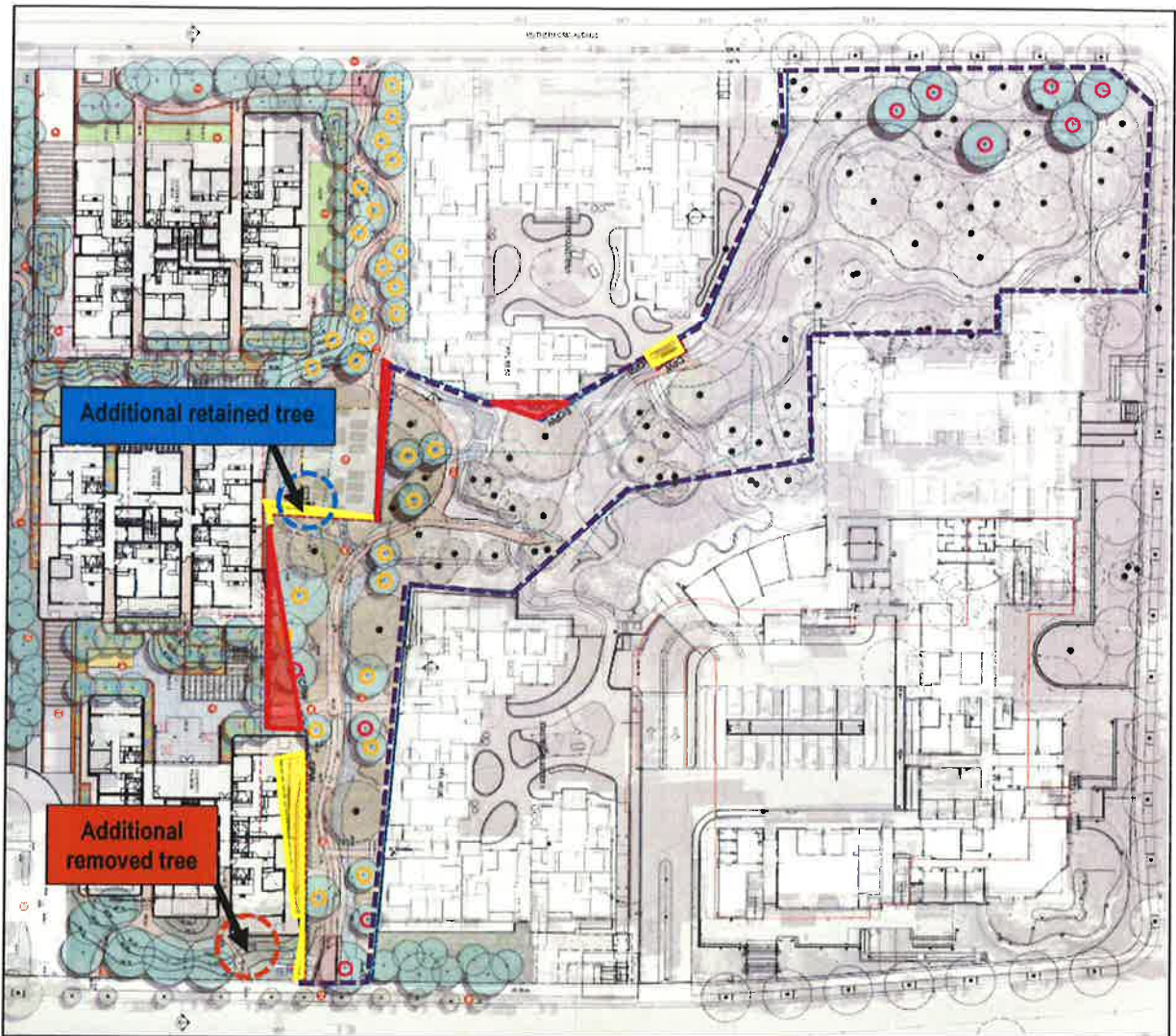


Figure 17: Proposed site plan showing the existing unchanged boundary of the CPW area (purple), proposed additional CPW area (red), and proposed reduced CPW (yellow). Proposed additional CPW planting is delineated by yellow circles (*source: application documents*)

Council raised no objection to the modified CPW boundary but noted the restriction on title should be updated to reflect the change in the CPW boundary. A condition has been included in the recommendation to this effect.

OEH raised no objection to the modified CPW boundary and supported the retention of the additional tree. However, it initially requested that consideration be given to whether the footprints can be amended to retain the additional tree now proposed for removal, or any other trees previously approved for removal. It also requested that trees to be removed (including those with hollows) be sensitively dismantled, protected and reused in the CPW area and nest boxes be monitored on an ongoing basis.

The Department notes the Proponent has undertaken to:

- install 23 repurposed natural hollows instead of nest boxes which are already in high density with the reserve
- replace damaged or lost nest boxes within the reserve with repurposed natural hollows or nest boxes
- harvest up to 4 trunk sections 3 – 4 m in length to be relocated onto the CPW reserve for on-ground habitat
- implement monitoring of the nest boxes and hollows
- update the Landscape Restoration Management Plan and Landscape Plans to reflect the above outcomes.

OEH advises it supports the above measures, in conjunction with the additional 28 new trees and recommends conditions be imposed to ensure the measures are included in the approval. OEH also noted the plan submitted with the RtS shows a 10 m defendable space within CPW and requested additional information with regard to the management of the defendable space.

The Department notes the 10 metre defendable space shown on the plans was approved as part of the original application and no changes are proposed to the management of this space as part of this modification request.

The Department considers the measures proposed by the Proponent, including provision of 28 new CPW trees, provision of natural hollows and ongoing monitoring would significantly improve biodiversity values on the site compared to the current approval. Conditions have therefore been recommended to ensure the additional measures are incorporated into the approval accordingly.

7.4 Parking

Accessible Parking

As approved, Clusters 2, 3 and 4 would include 102 basement parking spaces over 1-2 levels, including 26 accessible spaces. The proposal provides for a more efficient layout of the basement parking areas, resulting in the number of parking spaces increasing. Two options are provided:

- Option 1: 126 spaces including 7 accessible spaces 3.8 m in width or
- Option 2: 122 spaces including 4 accessible spaces 3.8 m in width and 17 accessible spaces 2.4 m in width with an adjacent shared space.

The Seniors Living SEPP requires car parking spaces to comply with the requirements for persons with a disability set out in AS 2890 (which requires accessible parking spaces to have a minimum width of 2.4 m with a 2.4 m shared area adjacent) and 5% of spaces must be designed to enable the space to be increased to 3.8 m.

The Department considers parking spaces provided in accordance with AS2890 (which have an effective width of 4.8 m) are superior to parking spaces 3.8 m in width. The requirement for parking spaces to be able to be widened to 3.8 m reflects an earlier version of AS2890 in place at the time of the original SEPP which only required accessible spaces to be 3.2 m wide. The 3.8 m requirement is effectively redundant where parking spaces are provided in accordance with the current version of AS2890, as the spaces are effectively wider than 3.8 m anyway.

As originally approved, all spaces in the basement carpark were designed to comply with the SEPP as every parking space had an adjacent shared space of 2.4 m. However, MOD 3 approved a reduction in the number of accessible spaces to 20% of all residential parking. The reduction was supported as it enabled the provision of additional car parking spaces on the site in an area that is not well serviced by public transport, but still provides a reasonable proportion of accessible spaces to meet potential demand. A condition was also included on the approval to ensure that standard spaces could be converted to accessible spaces should the need arise in the future.

Option 1 of the proposed modification would include 7 spaces (5%) 3.8 m wide, but none of the spaces would comply with AS2890 in that they do not include an adjacent shared space.

Option 2 would include 17 spaces (14%) compliant with AS2890 with adjacent shared areas and another 4 spaces (3%) 3.8 m wide.

The Department considers Option 1 represents a significant reduction in accessible parking, with no parking spaces provided in accordance with AS2890, compared with over 20% as approved. The Department considers this option is inconsistent with the intention of the SEPP and is therefore unacceptable.

Option 2 provides a much greater level of accessible parking. Although it includes less accessible spaces than the approved development, the Department considers that subject to one additional space being provided in accordance with AS 2890, the number of accessible spaces would be sufficient in this case.

As discussed below, the Proponent is only required to provide 18 parking spaces in total to service the residents of Clusters 2, 3, and 4. Therefore, provided all of the 18 required spaces under the SEPP are designed to comply with AS2890, the Department considers the intension of the SEPP would be met. Given the proposal only includes 17 accessible spaces, which comply with AS2890, the Department has recommended a condition requiring one additional accessible space to be provided.

The Department also notes all remaining spaces would be 2.7 m in width (rather than 2.4 m as approved) providing improved accessibility with more room to open doors and move around parked vehicles for users of the standard spaces.

With 18 accessible spaces provided, in addition to the four 3.8 m wide spaces as proposed, the retention of condition B17 to ensure other spaces could be converted to accessible spaces should the need arise in the future, and the proposed widening of the standard spaces to 2.7 m, the Department is satisfied the proposal will provide an acceptable level of accessibility for all persons and can always be adapted to meet the needs of residents in the future.

Option 2 has therefore been incorporated into the recommendation with a requirement to provide one additional accessible parking space.

Parking Provision

Option 2 includes 122 parking spaces for Clusters 2, 3 and 4. Depending on how the additional accessible space will be provided (as discussed above) and how bin moving equipment would be stored (as discussed below), up to 2 of these spaces may be lost. The proposal therefore represents an increase of 18 to 20 spaces from the approved development.

As the Proponent is a social housing provider, the Seniors Living SEPP provides that an application cannot be refused on the basis of parking if parking is provided at the rate of 1 space for 5 dwellings – in this case 18 spaces for Clusters 2, 3, and 4.

However, a higher rate of parking has consistently been applied to the development, noting it has limited access to services and public transport and it is anticipated there will be higher vehicle ownership rates as compared to typical social housing developments.

If the Proponent were not a community housing provider the minimum parking requirement for Clusters 2, 3 and 4 under the SEPP would be 0.5 spaces per bedroom, or 111 spaces. The proposed 120-122 spaces would therefore be generally consistent with the number of spaces anticipated under the SEPP for other seniors living developments and consistent with the rate of parking in the approved scheme relative to the number of bedrooms.

The proponent submitted a traffic assessment with the modification request. The report found that given that the overall number of dwellings would be reduced under the proposed modification, traffic generated by the development at peak times would be slightly lower than already approved. RMS advises it is satisfied any associated traffic impacts would be minor and adequately accommodated by the road system.

The Department is therefore satisfied the proposal would not result in any unacceptable traffic impacts and sufficient car parking would be provided to service the development.

Basement Parking Design and Access

The proposal seek approval for a new basement car park design and access arrangements. One approved level of parking has been deleted and a single level basement is proposed for Clusters 2, 3 and 4, with access for all cars to be provided from Rutherford Avenue. A separate

entrance to the garbage dock is proposed via the driveway from Free Settlers Drive.

Council raised some concerns with the basement design including blind isle length, ramp grades and clearance, shutters at the base of the ramp, movement of bins within the basement and provision of a turntable for trucks.

RMS noted the driveway to the servicing area may have potential for conflict with a nearby proposed van parking space.

The Proponent provided additional information and amended the basement plans to remove the turntable. The amended proposal would allow for an 8.8 m medium rigid vehicle to enter and leave the garbage dock in a forward direction without the need for a turntable. The Proponent has confirmed waste contractors are able to accommodate this requirement. The Proponent also advised waste bins would be transported within the basement using a bin tow or similar. The Proponent also advised any potential for conflict with the adjoining van parking area could be resolved by a small change to the kerb line, appropriate signage and a traffic mirror to ensure adequate sightlines.

The Council has advised its previous concerns have all been addressed and it supports the amended basement plan and waste management design. It has recommended a condition to ensure appropriate access for loading and waste collection.

To ensure issues raised by Council and RMS are adequately addressed through the construction and operational phases, conditions are recommended in relation to the size of waste contractor trucks, provision of mechanical bin moving equipment, signage, kerb design and mirrors at the service vehicle entrance. The Department notes one parking space may be required to be deleted to provide storage for the required bin moving equipment. No issues arise from the loss of one parking space, as parking exceeds the minimum requirements as discussed above.

Subject to the recommended conditions, the Department considers the proposed access arrangements and basement design are appropriate, capable of complying with relevant Australian Standards, and would meet the safety and waste management needs of the development.

7.5 Other Issues

Table 3: Assessment of key issues

Issue	Consideration	Recommendation
<i>Building Height</i>	• The proposal results in each of the three buildings exceeding the 16-metre height control applicable to the site under the Hills LEP 2012. While the eastern façade of each building has been designed to generally comply with the control, due to the slopping topography of the site, the western façade of the buildings would exceed the control by up to 2.2 metres. • As discussed earlier in this report, the Department is satisfied the proposal would not result in any unacceptable visual or amenity impacts, despite the non-compliance with the height control. • The proposal therefore achieves the objectives of the height controls and the Department is satisfied the variation is acceptable in this case.	No additional conditions or amendments necessary.
<i>Stormwater</i>	• The request was accompanied by a Stormwater Management Report which sets out stormwater management systems on the site including the inground (piped) and overland flow systems. The report also advises the site is not flood affected and the proposed floor levels would meet Council's freeboard requirements. • Council and OEH reviewed the report. Council did not raise any concerns but recommended conditions be included to ensure the basement access is protected from flooding in accordance with the	Conditions are recommended requiring compliance with the stormwater report, an emergency response plan in

Issue	Consideration	Recommendation
	stormwater report and to control the direction of runoff from the site. • OEH advised the modelling demonstrates the overland flow during the probable maximum flood event could potentially be unsafe. Given the vulnerability of seniors, OEH recommends an emergency response plan be prepared. • The Department notes the site has been designed to safely accommodate overland flows for the 1 in 100-year storm event and therefore meets Council requirements. However, as a much larger event may result in overland flows on the site, a condition is recommended requiring an emergency response plan to be prepared in consultation with OEH to ensure appropriate signage and procedures are in place for such an event. Conditions requiring compliance with the stormwater report and the direction of runoff from the site as recommended by Council have also been included. • The Department is satisfied that subject to conditions, the proposal includes appropriate stormwater management measures.	relation to runoff connections.
Density	• The proposal seeks to reduce the number of ILUs on the site from 244 to 241, but increase the GFA from 40,800m² to 41,679m² equating to a floor space ratio of 1.13:1. The additional floor space arises from additional three-bedroom units in place of one-bedroom units which have been deleted from Clusters 2, 3 and 4. The Proponent notes this is in response to market demand for more three-bedroom units in the seniors housing market. • The Department notes the total floor space will be very similar to the development as originally approved (41,471m²) before the GFA was reduced in Modification 4 and the proposal would have the same FSR of 1.13:1 as the original approval. • The Department has considered the potential impacts associated with increased density, and is satisfied the proposal would not result in any adverse visual, amenity or traffic impacts. • Further, even though the total floor space and the number of bedrooms would increase slightly, given the proposal results in a reduction dwelling numbers, and based on expected occupancy rates for this type of development, the modified proposal is expected to result in a reduced site population. As such the proposal would not result in any unexpected impacts on infrastructure demand or additional impacts on the local environment generally. • The Department is therefore satisfied the minor increase in GFA and density is acceptable and the proposal would not result in any additional impacts beyond those previously assessed and approved.	No additional conditions or amendments necessary.
Section 94 Contributions	• A section 94E Direction issued by the Minister for Planning on 14 September 2007, notes that consent to carry out development for the purposes seniors housing by a Social Housing Provider, is not subject to payment of section 94 contributions. • Council noted the Department should be satisfied the Direction continues to apply to the development. • The Department is satisfied the Proponent is a Social Housing Provider and as such, Section 94 contributions are not payable.	No additional conditions or amendments necessary.

8. CONCLUSION

The Department has assessed the modification request and supporting information in accordance with the relevant requirements in the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that:

- the proposed changes to the built form, height and design would not result in any unreasonable visual impacts

- the proposal results in improved internal amenity with additional private open space, improved building separation and no unacceptable overshadowing impacts
- the proposal would result in no adverse ecological impacts, noting the it would retain the minimum area of CPW, increase the number of CPW trees provided on the site, and improve fauna habitat
- adequate carparking would be provided to accommodate the needs of future residents without adverse traffic impacts.

Consequently, the Department recommends the modification request be approved subject in accordance with the modification instrument at **Appendix A**.

9. RECOMMENDATION

It is RECOMMENDED that the Director, Regional Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** the application can be determined under former section 75W of the EP&A Act
- **approves** the application, subject to conditions, and
- **signs** the notice of modification (**Appendix A**).

Recommended by:



Emma Butcher
Planner
Regional Assessments

DECISION

Approved by:



Anthony Witherdin
Director
Modification Assessments
as delegate of the Minister for Planning

APPENDIX A: NOTICE OF MODIFICATION

The Notice of Modification can be found on the Department's website at the following address:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9018

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9018

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9018

3. Response to submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9018