



Planning &  
Infrastructure

***MODIFICATION REQUEST:  
Residential and Childcare Centre  
Development  
14-18 Boondah Road, Warriewood  
  
Modification MP10\_0177 MOD 3***

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

October 2011

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## TABLE OF CONTENTS

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<b>1. INTRODUCTION</b>	<b>2</b>
<b>2. THE SITE</b>	<b>2</b>
<b>3. MAJOR PROJECT APPROVAL</b>	<b>3</b>
3.2 Previous Modifications	3
<b>4. PROPOSED MODIFICATION</b>	<b>4</b>
<b>5. STATUTORY CONTEXT</b>	<b>6</b>
5.1 Modification of the Minister's Approval	6
5.2 Environmental Assessment Requirements	6
5.3 Delegated Authority	6
<b>6. CONSULTATION AND SUBMISSIONS</b>	<b>6</b>
6.1 Pittwater Council	7
6.2 Roads and Traffic Authority	7
6.3 Department of Transport	7
<b>7. ASSESSMENT</b>	<b>8</b>
<b>8. CONCLUSION</b>	<b>10</b>
<b>9. RECOMMENDATION</b>	<b>11</b>
<b>APPENDIX A MODIFICATION REQUEST</b>	
<b>APPENDIX B SUBMISSIONS</b>	
<b>APPENDIX C RELEVANT REPORTS OR DOCUMENTS</b>	
<b>APPENDIX D RECOMMENDED MODIFYING INSTRUMENT</b>	

## 1. INTRODUCTION

This report provides an assessment of an application by Meriton Apartments Pty Ltd to modify an approved residential development at 14-18 Boondah Road, Warriewood (MP10\_0177).

The Proponent has sought to reduce the resident car parking requirement for two bedroom units from 2 spaces per unit to 1.57 spaces per unit and to delete a vehicular entry/exit point to the basement car park.

The application is recommended for approval, subject to conditions as detailed in the Instrument of Modification attached at **Appendix D**.

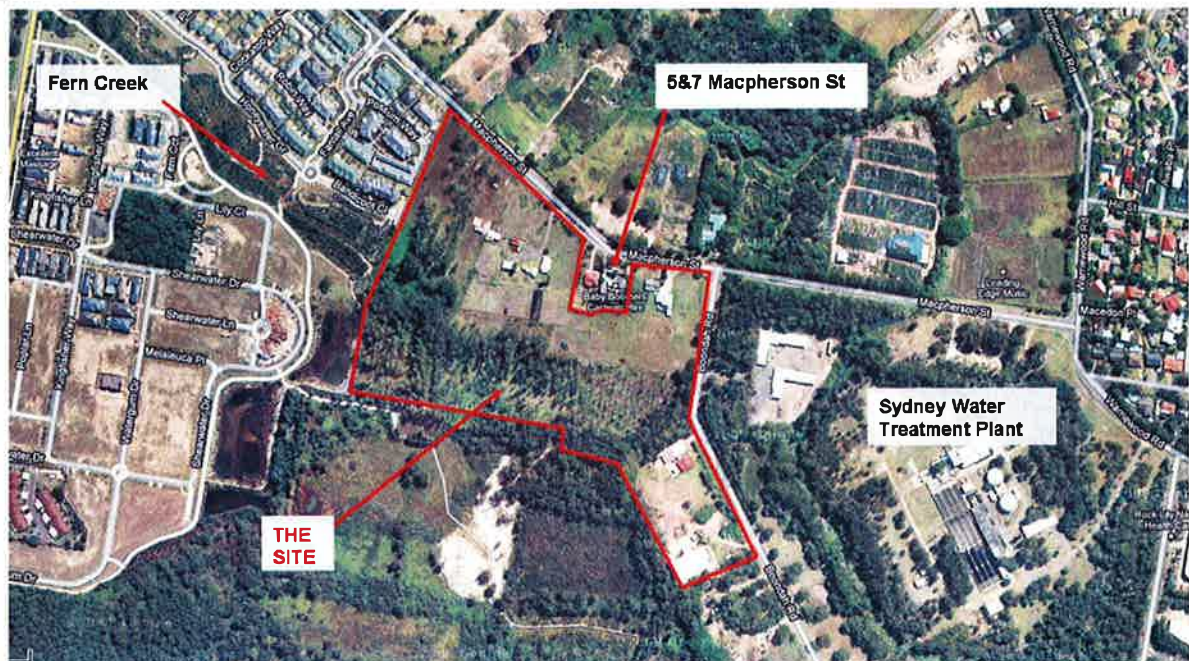
On 14 September 2011 the Minister for Planning and Infrastructure delegated his functions to determine Part 3A applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority.

The application is being referred to the PAC for determination as Pittwater Council has lodged a submission objecting to the proposal.

## 2. THE SITE

The subject site, 14-18 Boondah Road, Warriewood, is located in the Warriewood Valley Release Area within the Pittwater Local Government Area (LGA). The site is irregular in shape, has an area of 8.118 hectares and frontages of 293 metres to Boondah Road and 273 metres to Macpherson Street. Vehicular access is available from both road frontages. The land slopes approximately 2.5 metres to the rear (south) towards the wetlands.

The site locality and site boundary is illustrated in **Figure 1**



**Figure 1:** The site

The site is currently being developed in accordance with the approved Stage 1 Project Approval (MP10\_0177).

### 3. MAJOR PROJECT APPROVAL

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#### 3.1 Concept Plan Approval - MP 09\_0162 and Stage 1 Project Approval - MP 10\_0177

On 18 January 2011, the PAC approved a Concept Plan (MP 09\_0162) for a multi-unit housing development and childcare centre, private and public open space, parking, road works, pedestrian and cycle pathway, landscaping and ecological rehabilitation works.

The PAC also issued Stage 1 Project Approval (MP10\_0177) for:

- demolition of the existing buildings and structures on site and tree removal;
- excavation, earthworks and flood mitigation works;
- construction of 7 residential buildings apartments with associated pools and gymnasium;
- childcare centre;
- external road works, internal public access roads, pedestrian and cycle way; and
- ecological rehabilitation and landscaping works.

The Concept Plan Approval (MP 09\_0162) and Stage 1 Project Approval (MP10\_0177) were subject to modification requirements including a reduction in dwelling density and height. The Stage 1 Project Approval (MP10\_0177) included Condition B13 which required the car parking provision to meet Pittwater Council's DCP 21 requirements.

Specifically, DCP 21 requires the provision of resident car parking for two bedroom units at a rate of 2 spaces per unit and visitor car parking at a rate of from 1 space per 3 units.

On 6 June 2011, the Director-General approved amended plans to satisfy the above modification requirements and conditions. In summary, the amendments to Stage 1 involved a reduction from 295 apartments to 226 apartments and reduced heights of Buildings D, E, F and G to part 3 and part 4 storeys (**Figure 2**).

On 29 March 2011, Pittwater Council commenced Class 4 judicial review proceedings in the Land and Environment Court challenging the PAC's approval of the Concept Plan and Stage 1 Project Application. The central concern was that the conditions imposed by the PAC were legally uncertain. The matter was heard from 24 May 2011 until 26 May 2011. The appeal was dismissed on 12 September 2011.

#### 3.2 Previous Modifications

On 15 July 2011, the PAC approved a modification application (MP10\_0177 MOD 1) in relation to the Stage 1 Project Approval which included the deletion of the second basement level and provision of a total of 474 spaces within a single level basement. Condition B13 was modified to provide for a car parking rate of 2 resident car parking spaces per 2 bedroom unit and 1 visitor car parking space per 5 units. As modified Condition B13 reads as follows:

##### **B13 Car and Bicycle Parking Provision and Storage**

- Car parking provision shall meet the requirements of Pittwater DCP 21. **A total of 474 car parking spaces are to be provided within the basement, including a minimum of 46 visitor parking spaces.** Visitor parking shall include a minimum of 2 spaces designated for persons with a disability. The design and construction of the parking area and parking spaces must be in accordance with AS2890.1 and AS2890.6.*
- Secure bicycle parking is to be provided for 98 bicycles on site, designed and constructed in accordance with AS2890.3.*
- Storage areas for each dwelling are to be provided within the unit and/or basement or part lot.*

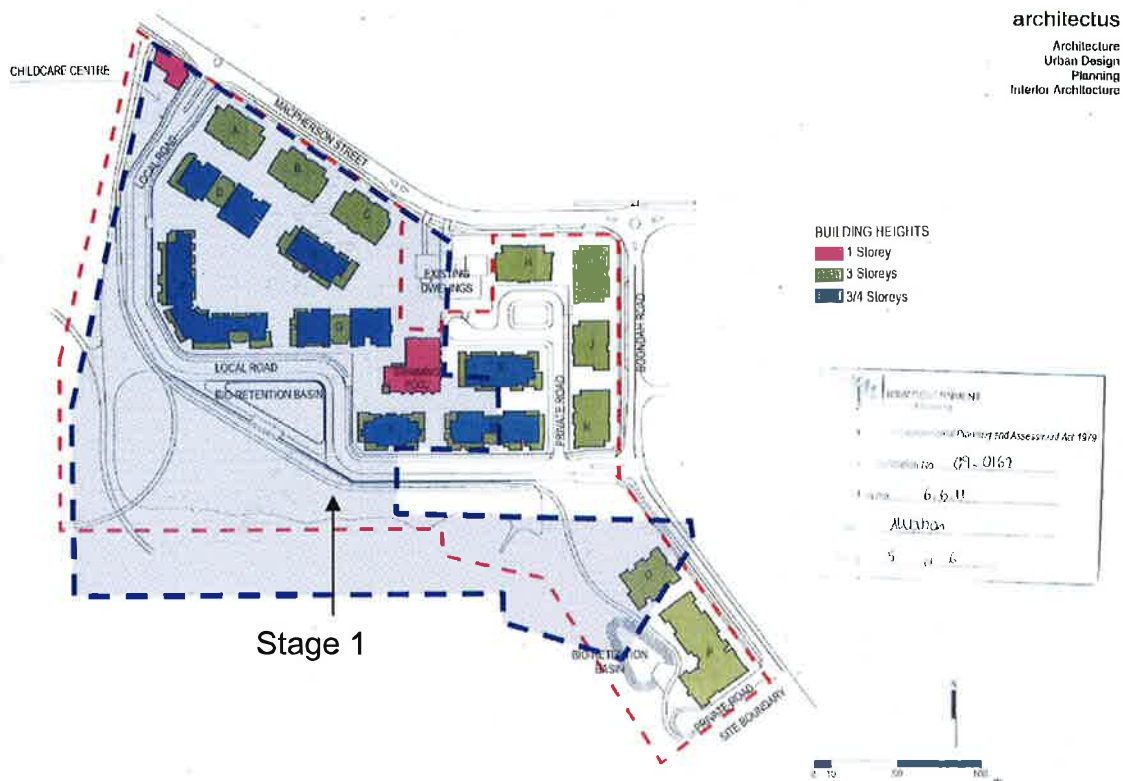


- d. **The 362 parking spaces in a stacked formation shall be allocated to the 2 or 3 bedroom units, ie. 2 stacked spaces must be allocated to a single apartment. All studio and 1 bedroom units, which are only allocated 1 parking space, must be provided with a single unstacked space. The 46 visitor parking spaces must not comprise stacked spaces.**

The modified rate approved by the PAC (1 space per 5 units) for the visitor parking spaces was a reduction from the rate required by the PAC in the original approval in accordance with Pittwater DCP 21 (1 space per 3 units).

Whilst DCP 21 requires a visitor car parking rate of 1 space per 3 units, Pittwater Council had advised that it accepted the reduced RTA rate of 1 space per 5 units for the relevant scale development in Warriewood Valley.

On 12 October 2011, the Director General approved a modification application (MP10\_0177 MOD 2) in relation to the Stage 1 Project Approval which involved the modification of Condition C19 – Ground water to allow for the installation of a permanent pumping system to ensure the basement is free of stormwater.



**Figure 2** The revised Project Layout approved by the Director-General in accordance with modification requirement 2 of the PAC Concept Plan Approval and Condition B1 of the Project Approval.

## 4. PROPOSED MODIFICATION

The application originally sought to modify the Stage 1 Project Approval of the following:

- an amendment to Condition B13 reduce the total number of parking spaces from 474 to 370 by allowing the following car parking rates:
  - 1.5 spaces per two bedroom unit (approved rate of 2 spaces per unit); and
  - 1 visitor space per 7 units (approved rate of 1 space per 5 units)

- deletion of an entry/exit at the eastern side of the car park resulting in access being from one entry/exit located at the western side; and
- amendment to the basement car park plan to reflect the reduction in car parking numbers and deletion of the eastern entry/exit.

In response to submissions from Council and the RTA, the Proponent amended the application resulting from a redesign of the basement car park to increase the total number of parking spaces to 395 (from the 370 originally proposed) with the proposed car parking rates increased to:

- visitor parking at the rate of 1 space per 5 units (as approved) – increased from a rate of 1 visitor space per 7 units sought in the original modification application (additional 13 visitor spaces compared to that originally proposed);
- resident car parking for 2 bedroom units at a rate of 1.57 spaces per unit – increased from a rate of 1.5 spaces sought in the original modification application (additional 12 spaces compared to that originally proposed providing a total of 290 spaces allocated to the 185 two bedroom units).

Table1 provides a comparison of the approved and proposed car parking provision .

	<b>Council's DCP 21</b>	<b>Original PAC approval (total 295 units)</b>	<b>PAC approval Mod 1 (total 226 units)</b>	<b>Proposed Mod 3 (as amended) (total 226 units)</b>
2 bedroom units	2 spaces per unit (466 spaces)	2 spaces per unit (466 spaces)	2 spaces per unit (370 spaces)	1.57 spaces per unit (290 spaces)
visitor	1 space per 3 units (98 spaces)	1 space per 3 units (98 spaces)	1 space per 5 units (46 spaces)	1 space per 5 units (46 spaces)
<b>TOTAL SPACES</b> (including parking for studio, 1 bedroom and 3 bedroom units)	<b>643</b>	<b>643</b>	<b>474</b>	<b>395</b> (including 2 emergency spaces and 1 car wash bay)

**Table 1: Car parking provision**

The Proponent has concurrently lodged an application to modify the Concept Plan approval (MP 09\_0162) to:

- delete the internal road and provide a driveway from Macpherson Street providing access to the western end of the Stage 1 basement car park and a driveway from Boondah Road providing access to an internal road within Stage 2;
- re-align the bicycle path;
- make no requirement for accessible units;
- reduce visitor car parking to 1 space per 10 units; and
- reduce the resident car parking requirement for two bedroom units from 2 spaces per unit to 1.5 spaces per unit.

This application is still under assessment. The Department notes the discrepancies between the proposed modifications to the Concept Plan and Project Application and will consider this as part of its assessment of the proposed Concept Plan modification.

## **5. STATUTORY CONTEXT**

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### **5.1 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"*.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify conditions imposed on the Project Application approval and therefore, approval to modify the application is required.

### **5.2 Environmental Assessment Requirements**

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 DGRs.

### **5.3 Delegated Authority**

The Minister has delegated his functions to determine Part 3A applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority.

The application is being referred to the PAC for determination as Pittwater Council has lodged a submission objecting to the proposal

In accordance with clause 3 of Schedule 6A of the EP&A 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 PAC may approve or disapprove of the modification to the project under section 75W of the Act.

## **6. CONSULTATION AND SUBMISSIONS**

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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 and referred to the Roads and Traffic Authority, the Department of Transport, and Pittwater Council for comment.

Pittwater Council objected to the proposal and the RTA objected to the originally proposed reduction in the visitor car parking rate. The Department of Transport did not object to the application and no submissions were received from the general public.

A summary of the issues raised in submissions is provided below.



## 6.1 Pittwater Council

Pittwater Council provided a submission (supplemented by a traffic study prepared by traffix that supports Council's position) which objected to the reduction in car parking provision on the following grounds:

- The proposed modification diverges from the PAC's determination of the Concept Plan and Stage 1 Project Approval, in particular the PAC's requirement that the development provide parking in accordance with Pittwater DCP 21.
- The application is inconsistent with the application to amend the Concept Plan approval for the site.
- The application should have regard to the proposed deletion of the internal road and the associated loss of kerbside parking for visitors sought under the Concept Plan modification.
- Council also raised concerns about the allocation of vehicle spaces, bicycle spaces and storage area provision.
- The application does not contain sufficient information to justify the changes proposed.
- The car parking rates required by Pittwater DCP 21 are consistent with the RTA's *Guide to Traffic Generating Development* for medium density residential development as the rates established including consideration of local circumstances having regard to public transport accessibility, geography and social characteristics of the local area.

## 6.2 Roads and Traffic Authority

The Roads and Traffic Authority (RTA) advised the following:

- No objection is raised to the proposed reduction from 2 car parking spaces per unit to 1.5 car parking spaces per two bedroom apartment.
- The proposed reduced visitor parking space allocation of 1 space per 7 apartments is not supported. The RTA noted that the development is in an area of Pittwater which has access to very limited public transport service during off peak and week ends and that the majority of visitors would be using a private vehicle.
- The car park plan indicates that support columns are located in car park aisles and thereby making adjoining parking spaces inaccessible. The RTA noted that this presents a safety issue for motorists and compromises the structural integrity of the building if the columns were to be struck by vehicles.
- Additional conditions addressing design in accordance with Australian standards and allocation of car parking spaces were proposed.

## 6.3 Department of Transport

The Department of Transport advised that it has no objections to the proposed reduction in the total number of parking spaces provided on site. The Department of Transport noted that the RTA had provided separate comments to this matter and these should be taken into consideration when assessing the proposed modification.

## 6.4. Proponent's Response to Submissions

The Proponent amended the application in response to issues raised in submissions by increasing the proposed car parking rates to:

- visitor parking at the rate of 1 space per 5 units (as approved) – (an additional 13 spaces to that originally proposed in this modification application);
- resident car parking for 2 bedroom units at a rate of 1.57 spaces per unit (additional 12 spaces to that originally proposed in this modification application).

Further, the Proponent provided the following points in response to the submissions:

- will delete the supporting columns in the basement car park;
- advised that inconsistencies between the applications to modify the Concept Plan and Stage 1 Approvals will be addressed by amending the Concept Plan application to provide a visitor car parking rate of 1 space per 5 units and resident car parking for 2 bedroom units in accordance with the RTA Guidelines;

- noted that existing conditions B3 and B13 address the basement car park design requirements raised by Council and the RTA;
- noted that the original approvals were based on visitor parking being provided in the basement and not on the internal road;
- provided further analysis of inconsistency of car parking rates between Council's DCP 21 and the RTA Guidelines;
- provided additional comments on RTA regional roadworks and access to / provision of public transport as well as suggesting a condition requiring the Proponent to approach the Government for more buses prior to the issue of an occupation certificate.

## 7. ASSESSMENT

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The Department considers that the key issues for the proposed modification are:

- the reduced car parking for two bedroom units; and
- the redesign of the basement car park.

### 7.1 Reduced car parking for two bedroom units

The proposal seeks to reduce the rate of car parking for the 185 two bedroom units from 2 spaces to 1.57 spaces per unit (from 370 spaces to 290 spaces). This equates to a reduction in the overall approved supply of 474 parking spaces to 395 spaces.

#### *Proponent's justification*

The Proponent advises that on 24 August 2011 the Sydney Regional Development Advisory Committee (SRDAC) took the view that the Stage 2 DA that was submitted pursuant to the Concept Plan that was under assessment with Pittwater Council at the time (now withdrawn) should more closely align with RTA guidelines (this includes 1.2 spaces per two bedroom unit). Following this advice, the Proponent now seeks to apply a reduced rate to the existing Stage 1 approval.

The Proponent has submitted a traffic report prepared by Halcrow in support of the proposed parking rate. It argues that the parking rate should be provided in accordance with the RTA's *Guide to Traffic Generating Development* as the proposed development has different characteristics to the type of multi-unit housing referred to in DCP 21. The RTA's Guide recommends a minimum rate of 1.2 spaces per 2 bedroom unit for medium density developments. The Proponent highlights that this rate is consistent with the 2006 Census for Pittwater LGA indicating a household car ownership rate of 1.29 vehicles per 2 bedroom unit. The proposed rate of 1.57 spaces per 2 bedroom unit exceeds both the RTA and Census rates.

The Proponent outlines further justifications for the reduced car parking rate including:

- increased deep soil and open space;
- less traffic generation;
- supply of public transport connects to main employment and retail at appropriate times; and
- market demand and affordability for two bedroom units.

#### *Council's comment*

Pittwater Council objected to the proposed car parking rate and states that the advice from the SRDAC was not formally provided to Council. Its submission is supplemented by a traffic report prepared by traffic which argues that the car parking rates under Pittwater DCP 21 of 2 spaces per 2 bedroom unit are appropriate for the following reasons:

- they are consistent with the RTA's Guide for medium density residential flat buildings which sets a minimum rate of 1.2 spaces per 2 bedroom unit;

- the DCP rates were established with consideration of local circumstances having regard to public transport accessibility, geography and social characteristics of the local area; and
- the proposed reduced parking rate would create further demand on public transport.

Council provided car ownership details from *Pittwater Local Planning Strategy – Pittwater Towards 2031* indicating a larger percentage of households in the Pittwater LGA with 2 vehicles compared to the Sydney average (42.2% compared with 30.2%). However, the Department notes that this figure is not specific to 2 bedroom units, rather for all households in Pittwater, the vast majority (78.1%) of which are larger detached dwellings.

The Council argues that the reduction of car parking provision places a heavy reliance on off-site parking on the surrounding street system where there is no surplus capacity. The Council further submitted that approval of the lower parking rate would set a precedent for development in the Warriewood Valley Urban Land Release that would result in serious safety and amenity implications.

#### *Department's comment*

The Department notes that the proposed rate of 1.57 spaces per 2 bedroom unit is slightly higher than the rate of 1.5 spaces per 2 bedroom unit previously supported by the Department in its original assessment of the Stage 1 Project Application (increasing from 278 spaces to 290). In the assessment of the Stage 1 Project Application the Department took the view that the proposal provides a good balance between addressing local car parking need and reducing car reliance and minimising traffic impacts. The Department noted that:

- the parking rate exceeded the RTA's Guide but was less than Council's requirements;
- the RTA had not objected to the parking rate;
- although public transport in Warriewood is limited it can be accessed from the site and that Sydney Buses had indicated that the level of service can be reviewed once the development has been completed; and
- the proposal seeks to improve pedestrian and cycle connectivity in the area to encourage other non-car transport modes for local trips.

The Department has re-examined its earlier view in its assessment of an appropriate car parking rate for the development. Despite Council's concerns, it is considered that reasoning remains valid. In addition to this, it is noted that the RTA minimum standard of 1.2 car parking spaces per 2 bedroom unit is consistent with the 2006 Census data for the Pittwater LGA regarding household car ownership for 2 bedroom units (1.29 cars per unit).

Further, the Department notes that the RTA and Department of Transport have not objected to this proposed reduction of car parking spaces.

The Department considers the condition suggested by the Proponent that requires them to approach the Government for more bus services is appropriate and has been included in the recommended modification instrument as **Condition F22**.

Noting the above, the Department supports the provision of 1.57 spaces per 2 bedroom unit as it is still considered that the modified proposal will provide a good balance between addressing local car parking need and reducing car reliance and minimising traffic impacts.

## **7.2 Redesign of the basement car park**

The proposal seeks the deletion of the vehicular entry/exit point at the eastern side of the car park resulting in car park access being provided at the western side of the basement via Macpherson Street.

Other changes to the car parking area as a result of the proposed redesign include the relocation of visitor and emergency vehicle parking spaces and relocation of some storage spaces.

In relation to the deletion of the vehicular entry point, the proponent's traffic report (prepared by Halcrow) argues that the car park entry queuing can be accommodated wholly within the site as required by the relevant Australian Standard and that the exit queue would be satisfactorily accommodated within the car park. The RTA did not object to the deletion of the eastern vehicular entry/exit. The Department raises no concern with this element of the proposal.

Council has raised concerns about the following aspects of the proposed redesign:

- the location of emergency/carwash and visitor spaces;
- storage area provision; and
- location/ availability of bike parking spaces.

In relation to the location of the emergency and car wash spaces, the Department notes that 2 emergency vehicle spaces are proposed near the basement entry along with a marked car wash bay. These spaces are separated from the allocated visitor spaces which are also grouped together and provided near the basement entry/exit. The Department considers that this proposed layout is appropriate. Notwithstanding, the Proponent has also agreed to provide signage to provide clear direction to the allocated emergency spaces (**Condition B13(i)**).

In relation to storage areas, the Department notes that the existing approval included 187 basement storage areas. The proposal provides for a minor increase to 190 separate storage areas. Further, **Condition B13(c)** requires that storage areas for each dwelling are to be provided within the unit and/or basement or part lot (as per the PAC's requirements for the approval of Mod 1). The Department considers that the proposed layout is consistent with the requirement of this condition.

In relation to the location and availability of bike parking spaces, the Department notes that the amended basement layout shows bicycle parking areas appropriately located adjacent to lift lobbies. The Department notes that existing **Condition B13(b)** also addresses this issue as it maintains a requirement for secure bicycle parking in accordance with the relevant Australian Standard and also is sought to be amended to provide a minor increase in spaces from 98 to 100.

## 8. CONCLUSION

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The Department is satisfied that this modification application falls within the scope of section 75W of the Act.

The proposed modification does not change the original assessment as to the site's suitability for this development.

The proposed modification is generally consistent with the terms of the Project Approval and is considered to be acceptable. It is therefore recommended that the application be approved subject to the modified conditions.

## 9. RECOMMENDATION

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It is recommended that the Planning Assessment Commission:

- (A) **Consider** the recommendations of this report;
- (B) **Approve** the modification, subject to conditions; under Section 75W of the *Environmental Planning and Assessment Act. 1979*, and
- (C) **Sign** the attached Instrument of Modification (**Appendix D**).

Endorsed by:



25/10/2011

Michael Woodland  
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Heather Warton  
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