



Planning & Environment

MODIFICATION REQUEST:

**Modification to the Concept Plan for the
Expansion of Existing Residential Aged Care
Facility**

**Sir Moses Montefiore Jewish Home, 100-120 King
Street & 30-36 Dangar Street, Randwick**

MP09_0188 MOD 2



Secretary's Environmental Assessment Report
Section 75W of the *Environmental Planning and
Assessment Act 1979*

June 2016

Cover image: Perspective view looking west along King Street

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EXECUTIVE SUMMARY

Urbis Pty Ltd (the proponent) seeks approval to modify the Concept Approval (MP08_0188) for the development at 100-120 King Street and 30-36 Dangar Street, Randwick, pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979*.

On 19 July 2011, the Planning Assessment Commission (the Commission) approved a Concept Plan for building envelopes ranging in height from four to six storeys to provide for residential aged care accommodation, a childcare facility, associated car parking and ancillary landscaping. Works have not commenced on the site.

This modification application seeks approval for amendments to the height and layouts of building envelopes, the amount and type of aged care accommodation, childcare centre places, car parking spaces, use of commercial tenancies adjoining the public square and modification to access, landscaping and other minor amendments.

The Department publicly exhibited the application from 5 November 2015 until 4 December 2015 and received three submissions from public authorities and 33 submissions of objection from the general public. Randwick City Council did not object to the proposal, however, it provided comments on the height and scale of building envelopes and amenity impacts.

The proponent submitted a Preferred Project Report (PPR) to address the issues raised during the exhibition period and to clarify key issues. A further 75 submissions of objection were received from the public. Council also provided a submission reiterating its comments on building envelope height and scale and amenity impacts following its consideration of the PPR.

The key issues in the Department's assessment are density, amendments to the built form, private view impacts and traffic and car parking.

The Department supports breaking up the King Street frontage to establish a landscaped setting for future buildings and opening up north/south view corridors across the site. The reconfiguration, and increase in height of the proposed building envelopes, is considered acceptable subject to a modification to ensure that the street frontage height of building envelope E is maintained consistent with the Concept Approval. The Department supports additional height away from the street frontage for building envelope E subject to sufficient setbacks to ensure the upper levels are not readily visible from the streetscape.

The increase in height of building envelope D is appropriate given its corner location and as it frames the approved public square. The Department recommends that the uppermost floor on the corner element is visually recessive to the levels below. Subject to this modification and detailed design within future development application(s), the proposed modified building envelopes have an acceptable relationship to the character and appearance of surrounding streets and adjoining existing buildings.

The proposed modification to the height and scale of the building envelopes has a minor and acceptable impact on existing private views across the site from neighbouring properties.

The Department is satisfied the modification would have a negligible impact on the operation of the local road network and will provide sufficient car parking to support the function and operation of the development. To ensure no additional pressure is placed on existing on-street car parking, a condition is recommended to safeguard the number of existing long term car parking spaces.

The Department therefore recommends the Commission approve the modification application, subject to conditions.

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1. BACKGROUND

1.1 Introduction

The purpose of this report is to provide an assessment of a section 75W modification application to a Concept Plan (MP09_0188 MOD2) for the expansion of the Sir Moses Montefiore Jewish Home aged care facility in Randwick.

Urbis Pty Ltd (the proponent) seeks approval for amendments to the height and layouts of building envelopes, number of Independent Living Units (ILUs), Residential Aged Care (RAC) beds, childcare centre places, car parking spaces, use of commercial tenancies adjoining the public square and modification to access, landscaping and other minor amendments.

1.2 Site and locality

The site is commonly known as the Sir Moses Montefiore Jewish Home and is located at 100-120 King Street and 30-36 Dangar Street Randwick, approximately four to five kilometres south-east of the Sydney CBD within the City of Randwick Local Government Area.

The site is square in shape with frontages to King Street to the south, Dangar Street to the east and Govett Lane to the north. The site shares its western boundary with medium density residential flat blocks fronting King Street and the University of New South Wales. The site has a total area of 29,353 square metres (m²) and currently accommodates an existing aged care facility (**Figure 1**).

The northern portion of the site is occupied by the existing aged care facility (shown below as buildings A and B), which ranges in height from three to five storeys and provides 276 aged care beds. Building C extends into the southern portion of the site, which comprises landscaped areas and hard stand car parking. An existing childcare centre is located in the south-west corner of the site. Vehicular access to the site is from King Street.



Figure 1: Site location and context

The site is located within an established urban area, which is characterised by a variety of building forms, heights, ages and architectural styles. The mixture of land uses include educational institutions, a bus depot, retail and low and medium density residential uses.

The part of King Street directly opposite the site comprises one and two storey semi-detached and terrace houses. The part of Dangar Street directly opposite the site comprises medium density housing and townhouses up to four storeys in height.

A brick chimney stack of the former Randwick Tram Depot is located to the west of the site at 90-98 King Street and is a locally significant heritage item.

1.3 Approval history

On 19 July 2011, the Planning Assessment Commission (the Commission) approved the concept plan (MP09_0188) (the Concept Approval) and Stage 1 project application (MP10_0044) subject to conditions.

The Concept Approval allows for an additional 281 RAC beds (including 94 special care/dementia beds) and 36 ILUs with a maximum gross floor area (GFA) of 37,968 m². The approval also allows for a total of 217 car parking spaces.

The Concept Approval comprises the following two stages (**Figure 2**):

- **Stage 1:** Building envelopes (C) and (D) of five levels toward the south-eastern corner of the site providing residential aged care accommodation, support services and a 350 m² retail space fronting onto a public square; and
- **Stage 2:** A building envelope (E) of between four to six levels towards the south-western corner of the site providing residential aged care accommodation and ancillary spaces, an 80 place childcare centre to replace the existing childcare centre and associated car parking.

The Stage 1 Project Application for Building C and D comprises the following (**Figure 3**):

- refurbishment and alteration of Building C;
- a five storey building providing for aged care and dementia care beds and support services (approximately 5,200 m²);
- a retail unit at the ground level;
- 170 car parking spaces; and
- a public square at the corner of King and Dangar Streets.

The Concept Plan and Stage 1 Project Approval have since been modified as summarised in **Table 1** below.

Table 1: Modifications to the approved Concept Plan and Stage 1 Project Application

Mod No.	Summary of Key Modifications	Approved
Concept Plan MP09_0188 MOD 1	Modification to Term of Approval A2 to reference Environmental Assessment and Preferred Project Report documents	11/01/2012
Stage 1 MP10_0044 MOD 1	Modification to Term of Approval A2 to reference Environmental Assessment and Preferred Project Report documents	11/01/2012

The location of approved building envelopes and their heights are shown in **Figures 2** and **3**.

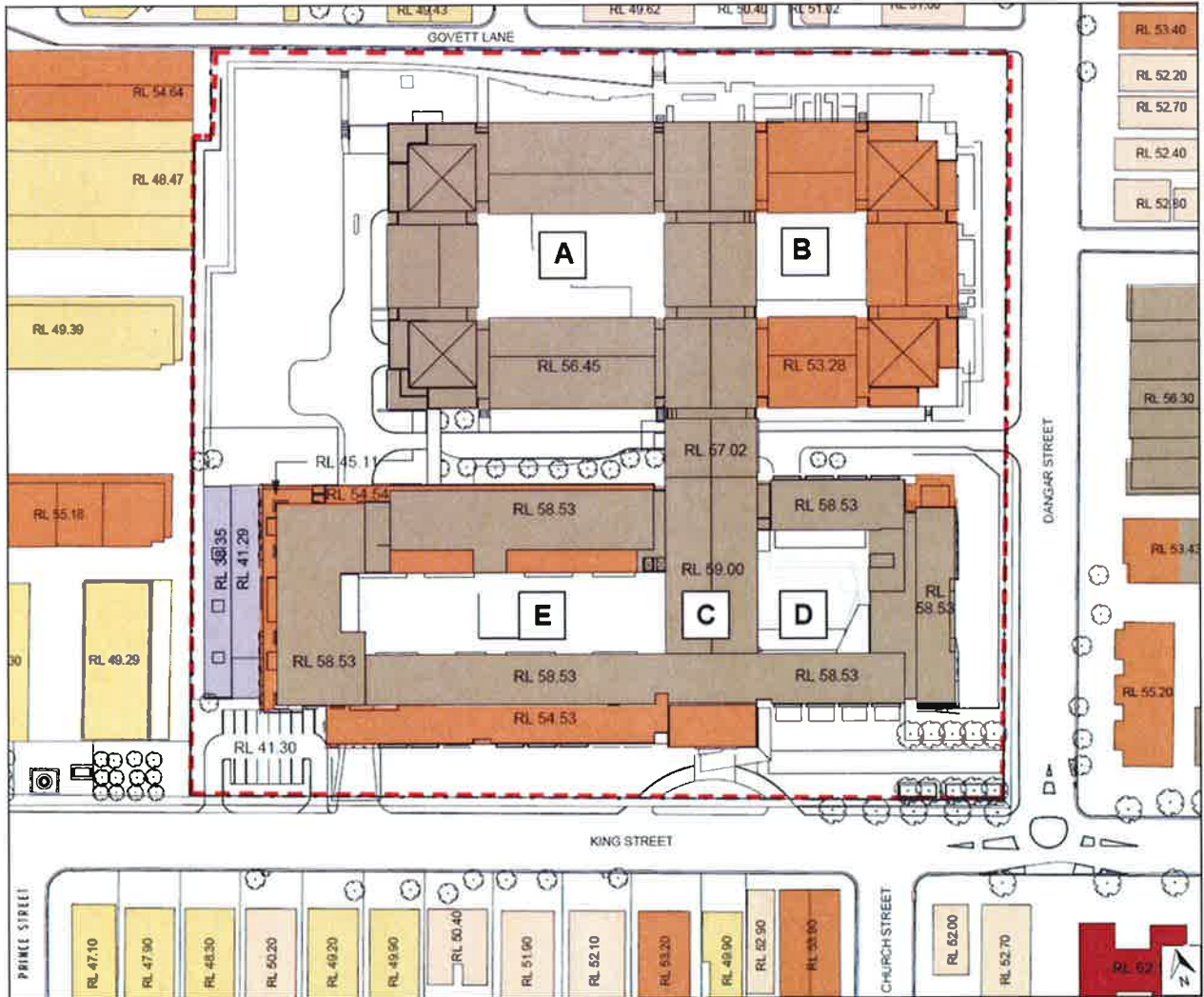


Figure 2: Concept Approval building envelope locations, layouts and heights

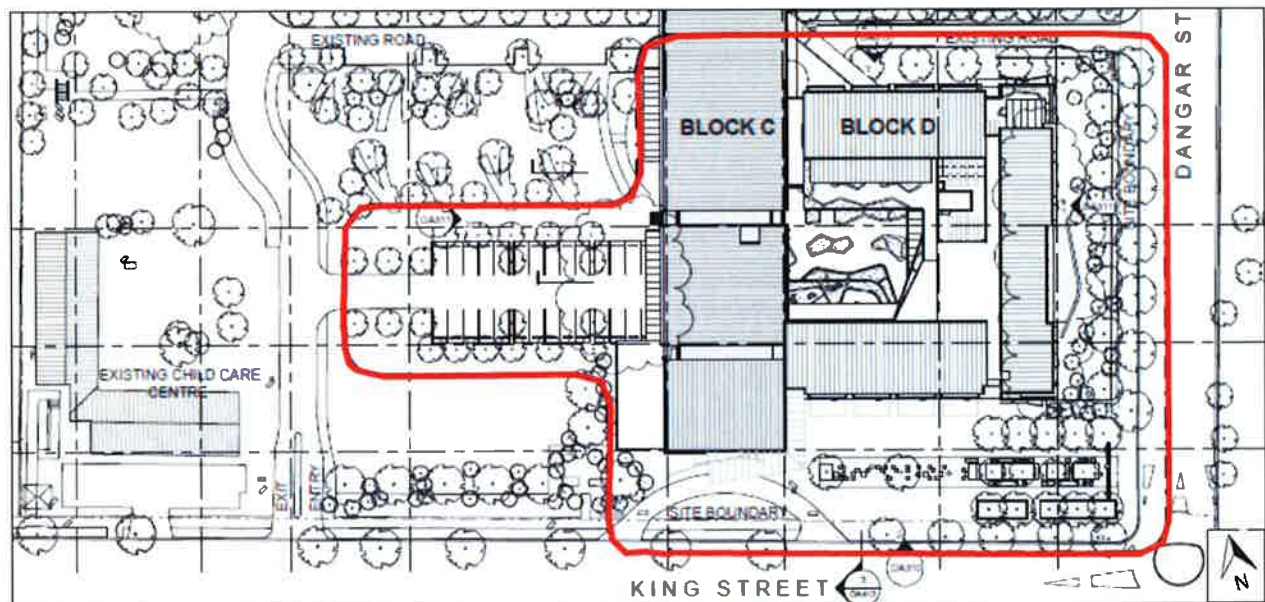


Figure 3: Stage 1 Project Approval boundary

This application relates to both stages of the Concept Approval only (i.e the building envelopes within the southern portion of the site). The application does not propose amendments to the Project Approval or the development within the northern portion of the site.

1.4 Future applications

If the proposal is approved a future Section 75W modification to the Stage 1 Project Approval (building envelopes C and D) will be required in order to undertake any construction works, consistent with the modified Concept Approval. All works relating to building envelopes E and F will require future Development Applications (DAs), which will be determined by Council.

2. PROPOSED MODIFICATION

2.1 Modification description

The modification application proposes the following key changes to the Concept Plan:

- amendment to building envelopes C, D and E (including a new envelope F);
- increase of 68 ILUs (from 36 to 104), an increase of 15 special care/dementia beds (from 94 to 109), reduction of 170 RAC beds (from 187 to 17);
- reduction of 40 childcare centre places (from 80 to 40 places);
- increase of 63 car parking spaces (from 217 to 280 spaces);
- use of the retail space adjacent to the public square for retail, business, commercial and community-related uses; and
- modification to access, landscaping and other minor amendments.

The modified proposal is shown at **Figures 4 to 7**. Further details of the proposed modifications are provided at **Appendix A**.



Figure 4: Proposed building envelope locations, layouts and heights



Figure 5: View south along Dangar Street towards indicative buildings within the approved building envelope D (top) and proposed building envelope D (bottom)



Figure 6: View west along King Street towards indicative buildings within the approved building envelope D (top) and proposed building envelope D (bottom)



Figure 7: View north from the southern side of King Street towards indicative buildings within the approved building envelope E (top) and proposed building envelopes E and F (bottom)

2.2 Project Need and Justification

Since the determination of the original Concept Plan, Montefiore has undertaken detailed market analysis regarding the demand for the type of seniors housing within the area. This research has indicated a local need for more ILUs than what is currently included within the existing Concept Plan approval.

ILUs allow active people to age-in-place by providing in-house and on-site services and facilities, becoming a form of 'assisted accommodation' over time as the occupant's personal requirements change. They also allow for the transition of people to an aged care facility when/if required.

Residential aged care facilities, by virtue of their very specific staffing, physical and servicing requirements often involve larger, longer and more 'institutionalised' looking building forms, whereas ILU buildings can present as conventional apartment buildings. The proposal seeks to revise the building envelopes to address the different functional requirements of the aged care facility and ILU components of the development, in particular:

- specialist aged care beds/services and dementia care beds are proposed within building envelopes C and D; and
- ILUs are proposed within stand-alone building envelopes E and F.

A Plan for Growing Sydney

A Plan for Growing Sydney (the Plan) sets out the NSW Government's vision for Sydney to 2031. The Plan anticipates that the population of Sydney will increase by 1.6 million people by 2031 and this will result in the need for approximately 689,000 new jobs and 664,000 new homes across the metropolitan area.

The Plan outlines the need to provide a wider variety of housing to suit the changing make-up of the population, with more than one million people expected to be over 65 years by 2031.

The proposal supports the strategic aims of the Plan by providing a mix of aged care housing facilities and services and ILUs which encourage people to age in place and remain active with ready access to assistance if required.

The proposal is expected to provide a high level of care to meet the demands of an aging population and is considered a significant public benefit.

3. STATUTORY CONTEXT

3.1 Continuing operation of Part 3A to modify approvals

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), section 75W of the EP&A 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 of the carrying out of the project under section 75W of the EP&A Act.

3.2 Modification of a Minister's Approval

The modification application has been lodged with the Secretary pursuant to section 75W of the EP&A 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 on 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, this proposal seeks to make substantial changes to the approved building and modify specific conditions of approval, which require further assessment and approval.

3.3 Secretary's Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the Secretary may notify the proponent of Secretary's Environmental Assessment Requirements (SEARs) with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the proponent of SEARs as suitable information was provided to the Department to consider the application.

3.4 Environmental Planning Instruments

The following EPIs are relevant to the application:

- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*;
- *State Environmental Planning Policy (State Significant Precincts) 2005* (SSP SEPP);
- *State Environmental Planning Policy (Infrastructure) 2007*;

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; and
- State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development & accompanying Residential Flat Design Code / Apartment Design Guide.

The Department undertook a comprehensive assessment of the redevelopment against the above mentioned EPIs in its original assessment. The Department has considered the above EPIs and is satisfied the proposal remains consistent with the EPIs.

3.5 Delegated authority

Under delegation of 14 February 2015, the Commission may determine applications made by persons other than a public authority under delegation where:

- the relevant local council has made an objection; and/or
- a political disclosure statement has been made; and/or
- there are more than 25 public submissions in the nature of objection.

Randwick Council has not objected to the proposal and no political donations have been disclosed in this modification request. However, more than 25 public submissions in the nature of objection have been received in response to the proposal.

The Commission can determine the modification request under delegated authority.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

In accordance with section 75X(2)(f) of the EP&A Act, the Department publicly exhibited the applications for 30 days from 5 November 2015 until 4 December 2015. The application was publicly available on the Department's website and exhibited at the Department's Information Centre and at the Randwick City Council office.

The Department placed a public exhibition notices in the Sydney Morning Herald, Daily Telegraph and the Southern Courier on 4 November 2015 and notified landowners and relevant state and local government authorities in writing.

4.2. Public authority submissions

A total of three submissions were received from public authorities in response to the exhibition from Randwick City Council (Council), Roads and Maritime Services (RMS) and Transport for NSW (TfNSW).

RMS and TfNSW confirmed that they had no objection to the proposal.

Council does not object to the modification. However, it raised the following concerns:

- the increases in the height and scale of the envelopes results in overbearing and visually intrusive development and would set a precedent for further extensions;
- the introduction of open space between building envelopes has limited effect in softening the scale of development;
- the development does not address pedestrian circulation and connectivity between open spaces and public domain;
- Building F relates poorly to the Centennial Apartments and King Street;
- the view loss assessment provided is inadequate. The view sharing principles established in the case of *Tenacity v Warringah Council* should be applied;
- the non-residential component should be limited to retail use only to ensure it is capable of serving the wider community;
- further details are required in relation to proposed drainage and flood impacts; and

- employee parking should be accommodated on-site.

4.3. Public submissions

A total of 33 public submissions were received during the exhibition of the modification application, all in objection. The concerns raised in the public submissions are summarised in Table 2.

Table 2: Summary of issues raised in public submissions

Issue	Proportion of submissions
Inappropriate increase in height	24%
Adverse traffic and car parking impacts	23%
Operational noise impacts	12%
Exceeds LEP controls	9%
Private view loss	8%
Increased light pollution from operation of facility	7%
Loss of privacy	7%
Inadequate public consultation	6%
Adverse impact on the character of the area	5%

Other issues raised in resident submissions (less than 5%) to the exhibition included:

- overshadowing;
- modifications warrant a new application;
- adverse increase in density of ILU numbers;
- the public square should not be used for retail purposes;
- retail accommodation should open on Saturdays;
- social housing required within scheme; and
- adverse wind impacts.

4.4. Proponent's Preferred Project Report (PPR)

Following the public exhibition of the modification application, the Department placed copies of all submissions received on its website. The Department requested that the proponent address the issues raised in the submissions as well as a number of specific issues in relation to visual and view impacts, residential amenity and car parking.

In response to concerns raised by the community, Council and the Department, the proponent submitted a PPR, which made the following key changes:

- increase the southern (King Street) and eastern (Dangar Street) top floor setback of building envelope D by 1.0 metre (m);
- increase the southern (King Street) top floor setback of building envelope E by 1.5 m;
- provide 2.5 m setbacks to the eastern and western top floors of building envelope E;
- provide a 1.2 m setback to approximately half of the southern (King Street) elevations of building envelope E and F; and
- extension of building envelopes E and F to the north by 2.8 m.

4.5. Submissions to the PPR

Council provided a submission to the PPR and reiterated/raised the following concerns:

- the proposed increases in setbacks and reductions in building envelopes are minimal in nature and have little mitigating effect to built form impacts;
- the proposed heights and scale set a precedent for future extensions;
- the introduction of open space between building envelopes have limited effect in softening the scale of development; and
- the increases in height have adverse view loss impacts.

A further 75 public submissions of objection were received in response to the proponent's PPR. The majority of these submissions raised concerns already mentioned regarding height, traffic, car parking noise, privacy and light spill. However, additional concerns were also raised regarding the Department's decision not to re-exhibit the PPR and the potential for flooding impacts to neighbouring properties.

Copies of the submissions may be viewed at **Appendix A**. The Department has considered the comments raised in the public submissions during the assessment of the application and has given specific consideration to the key issues raised in **Section 5** of this report and/or by way of recommended conditions in the instrument of consent at **Appendix B**.

5. ASSESSMENT

The Department considers that the key assessment issues are:

- amendments to built form;
- private view impacts; and
- traffic and car parking.

Each of these issues are discussed in the following sections of this report. **Section 5.5** of the report discusses other issues that were taken into consideration during the assessment of the application.

5.1 Amendments to built form

The height and scale of building envelopes was a key consideration of the Department's original assessment. The Department concluded the four to five storey height, bulk and scale of the built form was acceptable as the development concentrates its greatest height within the centre of the site and all buildings are set back approximately 10 m from King and Dangar Streets and 18 m from the western side boundary. The Commission similarly determined that the central massing of the proposal and its articulation and setbacks would sufficiently reduce the perceived bulk of the buildings and achieve an acceptable built form relationship to the immediate locality.

The current proposal seeks to divide the continuous (generally four to five storey) building envelope fronting King Street into three separate envelopes and amend the configuration/orientation, height and setbacks of building envelopes within the southern portion of the site. A comparison of the approved and proposed building envelope layout and scale is provided at **Figure 8** and approved and proposed building envelope sections are provided at **Figures 9, 10 and 11**.

The *Randwick Local Environmental Plan 2012* (RLEP) provides a height limit of 9.5 to 12 m across the site and surrounding properties along King and Dangar Streets.

Council raised concern about the increase in height of the building envelopes and stated that the proposed communal space between building envelopes C, E and F does not sufficiently mitigate the impact of the amended building envelopes on the existing King and Dangar Street streetscapes. Concerns have also been raised in public submissions about the proposed amendments to building envelopes, in particular the proposed increase in height and its associated impacts on the character of the area and the amenity of nearby properties.

In response to the concerns raised the proponent has made minor increases to setbacks and reductions in the widths of the building envelopes D, E and F. The proponent contends that the modified building envelopes provide for an appropriate built form, noting the landscaping between buildings and the setbacks provided to the top-most levels.

The Department has assessed the proposed modifications to Buildings D, E, F and C below.



Figure 8: Approved (top) and proposed modified (bottom) concept plan layout and scale

5.1.1 Building envelope D

The proposal seeks to amend building envelope D as follows (Figures 8 and 9):

- the height of the eastern and northern arm of the building envelope have been increased by 3.1 m (from RL58.53 to RL 61.63);
- a one metre setback is provided at the top-most level fronting Dangar Street; and
- the southern King Street elevation has been reduced in height by 900 millimetres (mm) (from RL 58.53 to RL57.63).

The Department has considered the concerns raised by Council and the community and concludes that the proposed amendments to building envelope D would not have a detrimental impact on the surrounding streetscapes as:

- the increase in height is appropriate given its prominent corner location. In addition the future building will provide an appropriate visual marker and will frame the approved public square;
- despite the increase in height being approximately seven metres above the LEP height control in this portion of the site, building envelope D remains approximately 1.3 m lower than 113-125 King Street, which is a residential flat building located diagonally opposite on the southern side of King Street;
- the inclusion of a one metre top floor setback fronting Dangar Street ensures that the proposed top floor will be visually recessive. To ensure this is achieved, the Department recommends a future environmental assessment requirement (FEAR) requiring the future Section 75W modification application for Stage 1 to demonstrate the top floor is visually light-weight (in terms of its materiality), appropriately designed and includes high quality materials and finishes;

- the proponent's shadow analysis has demonstrated the increased height will not cause adverse shadow impacts on the neighbouring properties; and
- the building envelope is setback between 10 to 11 m from the site boundary allowing landscaping to screen the development and there is approximately 36 m separation from neighbouring properties (including Dangar Street road reserve and setbacks to neighbouring properties). Therefore the building envelope is not expected to cause any other amenity impacts in terms of visual or acoustic privacy.

The Department notes that building envelope D has been specifically designed to accommodate aged care beds/services, and specialist dementia care beds. This component of the facility, and the additional storey proposed, will provide a high level of care to meet the demands of the aging population and is considered a significant public benefit. The Department considers additional setbacks at the top floor level of building envelope D may adversely impact the functional layout requirements of the facility and therefore jeopardise the delivery of this public benefit.

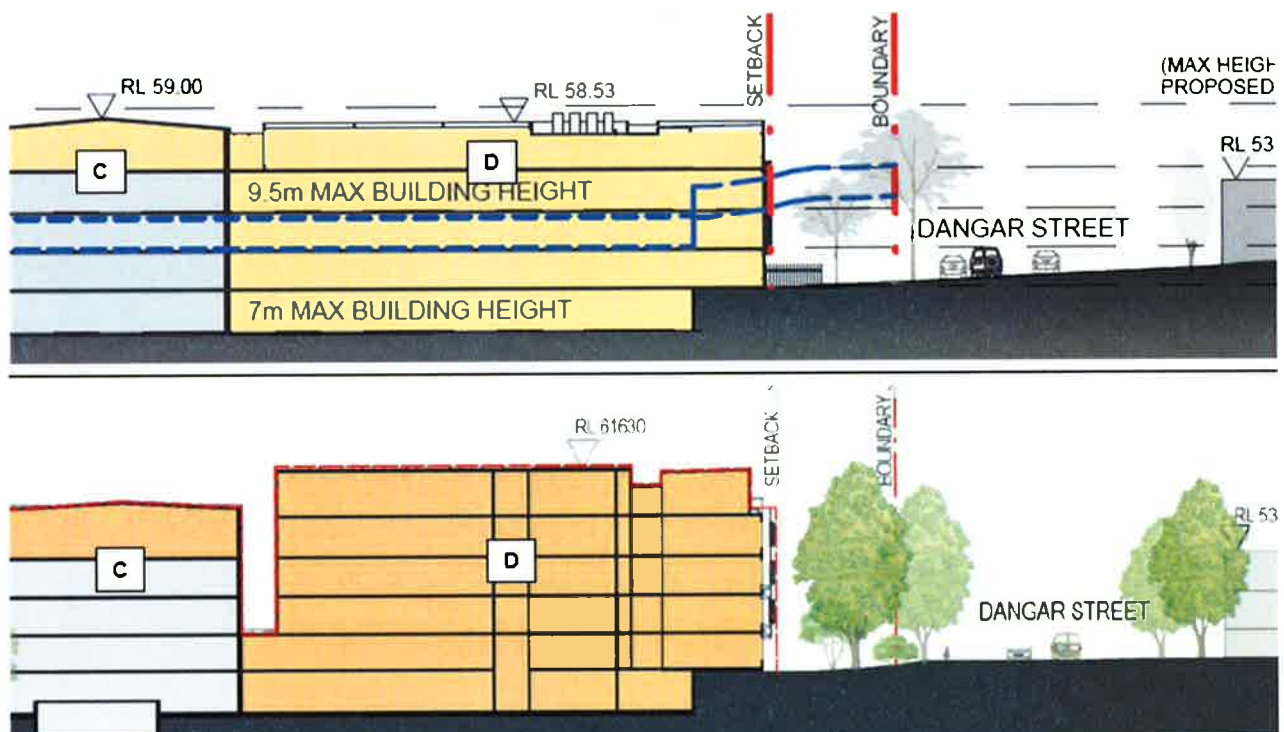


Figure 9: Approved (top) and proposed (bottom) Dangar Street building envelope setbacks

5.1.2 Building envelope E

The proposal seeks to amend building envelope E as follows (Figures 8 and 10):

- division and reconfiguration of building envelope E, to create building envelopes E and F;
- the southern King Street elevation is increased by 3.1 m (from RL 54.53 to RL 57.63); and
- two additional floors are also added (RL 58.53 to RL 64.83), which are set back an additional 11.5 m from the front King Street elevation.

The Department has considered the concerns raised by Council and the community and the further amendments made by the proponent with regard to building envelope E. Overall, the Department supports the division of the building envelope into two building envelopes as it introduces view corridors between buildings, provides opportunities for additional landscaping and also reduces the institutional appearance of the previously approved continuous street wall to King Street.

These alterations go some way to mitigating the proposed increases in height, but the Department agrees with Council that the separation alone does not fully offset the proposed increase in height.

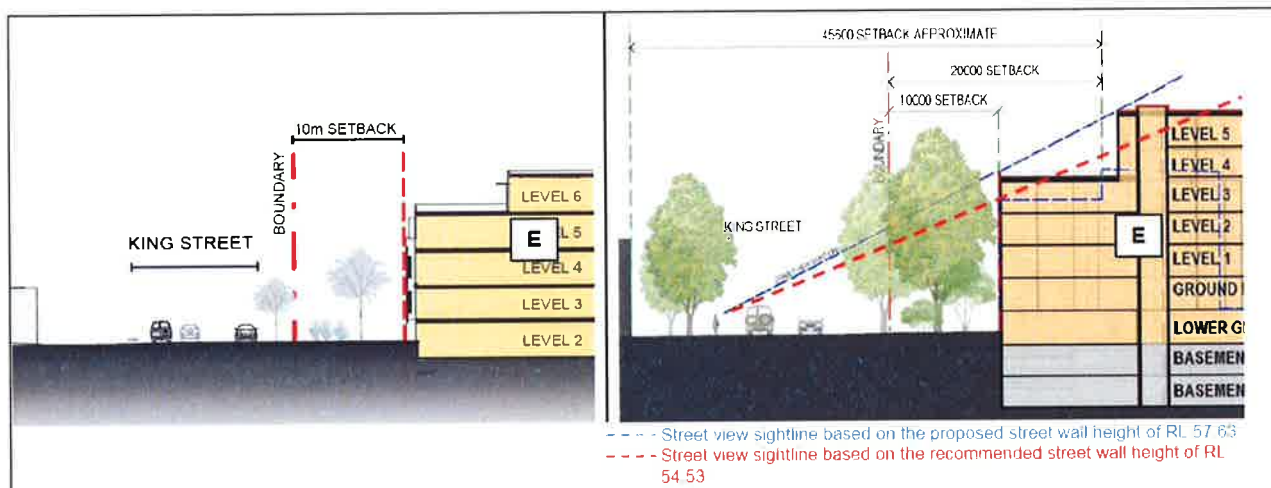


Figure 10: Approved (left) and proposed (right) King Street building envelope setbacks.

The Concept Approval established a consistent four storey street frontage height along King Street which is generally consistent with the RLEP 12 m height control and would maintain a suitable relationship with the one and two storey terraces and semi-detached dwellings on the opposite side of King Street. The Department considers that some additional height can be accommodated within building envelope E, where it is well setback and not readily visible from the streetscape. However, the Department does not support the 3.1 m (one storey) increase in height along the street frontage (as shown in **Figure 7**) as this five storey element will have an unacceptable height, scale and bulk relationship with the lower scale character of buildings on this part of King Street.

The Department maintains that the approved height of RL 54.53, which would allow a four storey building, is appropriate to ensure the future building will be compatible and provide an acceptable transition to the low scale residential development in King Street. The Department therefore recommends that building envelope E be modified so the King Street elevation is retained at RL 54.53 and aligns with adjacent building envelopes C and F.

In addition, the Department also recommends that future DAs to Council for building E provide appropriate setbacks to the three topmost levels (levels 3, 4 and 5 in **Figure 10**) and any associated structures (such as balustrades for balconies and terraces) are not readily visible from a pedestrian perspective when standing directly opposite the building on the southern side of King Street.

The Department acknowledges that the recommended amendments will result in a minor reduction in both GFA and the number of ILUs which can be accommodated within Building E. However, the Department considers these amendments are necessary to ensure the future buildings provide an appropriate height and scale relationship with the existing low scale character of King Street. The minor reduction in ILUs will still allow significantly more ILUs than the previous approval, which will ensure the benefits of the proposal in terms of (providing a higher proportion of aged care housing) in an independent living environment with access to support services offered by the broader Montefiore facility are maintained.

The Department concludes that, subject to the above changes, proposed building envelope E will be acceptable and would not have an adverse visual impact on the King Street streetscape or surrounding visual amenity. The Department has recommended a new Modification and FEAR to secure the above amendments.

5.1.3 New building envelope F

The proposal seeks to provide a new building envelope F (formerly the western component of building envelope E) as follows (**Figures 8 and 11**):

- proposed as a completely detached element at the south-western corner of the site;
- expansion of the southern elevation fronting King Street (height of RL 54.53) so it aligns with the front building line and height of building envelopes C and E; and
- the part one and part two storey building envelope, located along the western boundary, has been deleted.

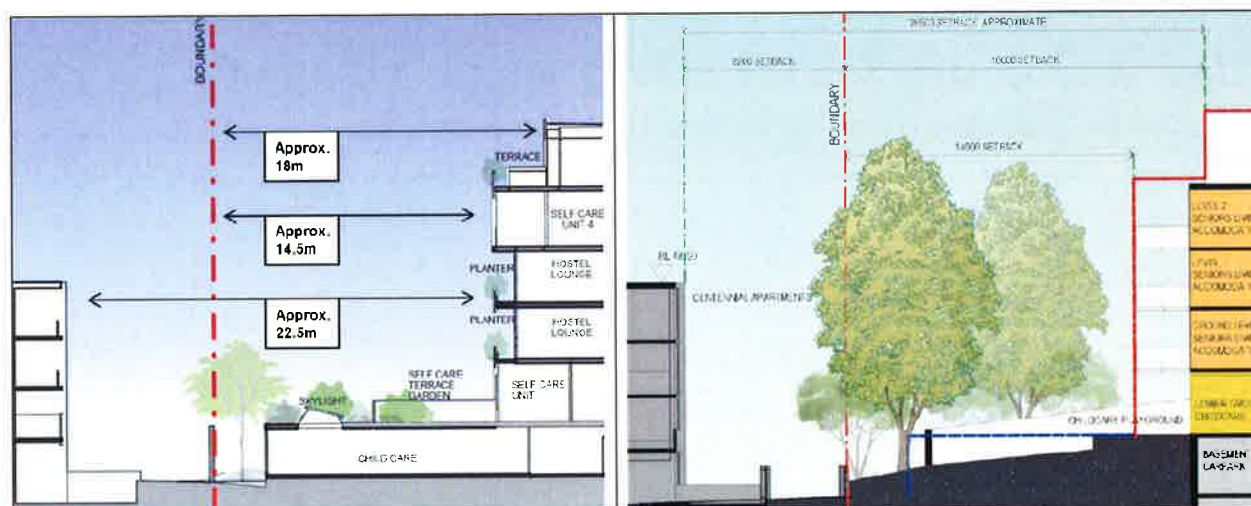


Figure 11: Approved (left) and proposed (right) western boundary building envelope locations

The Department supports the retention of the four storey (RL 54.53) height along the King Street frontage and notes the minor expansion of the southern elevation of the building envelope would align with the King Street elevations of building envelopes C and E and the neighbouring Centennial Apartments building to the west. The Department considers this change is acceptable and would strengthen the established and proposed ten metre setback building line along King Street.

The Department supports the deletion of the part one and part two storey building envelope as this would allow for the provision of a childcare centre playground and additional soft landscaping between Centennial Apartments to the west and proposed building envelope F.

The scale of the proposed building envelope F otherwise generally replicates the approved building envelope. The Department concludes that the proposed amendments will have a positive impact on the relationship between the proposal and the King Street streetscape and the neighbouring Centennial Apartments.

5.1.4 Building envelope C

The proposal seeks to amend building envelope C to infill/increase in the height of the setback roof level by 470 mm (from RL58.53 to RL59) to match the majority of the remaining building envelope height (**Figures 2 and 4**).

The Department considers the proposed 0.47 m increase in height is minor, is setback from the street frontage and would not be discernible from the approved envelope and is therefore acceptable.

5.1.5 Density

The proposal decreases the GFA of the development by 691 m² or 3,808 m² (dependant on the GFA definitions within the RLEP and *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* respectively).

Concerns have been raised in public submissions that the proposed development exceeds Council's floor space ratio (FSR) controls.

The Department notes that both the approved development and proposed modification exceed the FSR controls for the site. However, the Department considers the proposed density is appropriate as:

- the terms of approval, modifications and FEARs of the concept approval as amended by this proposal will ensure the resulting development is of an acceptable overall design and will not result in unreasonable impacts on the amenity of surrounding properties;
- the development will be contained within the proposed modified building envelopes, which have been assessed as compatible with the surrounding locality subject to modifications and FEARs (refer to **Section 5.1**); and
- the proposed would not result in additional adverse car parking impacts or traffic generation as discussed in **Section 5.4**.

The Department notes the recommended changes to building envelope E (as discussed in **Section 5.1.2**) will further reduce the GFA of the proposal. Given the precise impact on GFA is unknown at this time, and subject to detailed design as part of future DA(s), the Department recommends that Modification 1 'Gross Floor Area' should be deleted, rather than amended. The Department is satisfied that the built form and amenity impacts are appropriately controlled through the modified building envelopes and there is no need to further control the development in terms of GFA.

5.2 View impacts

The existing residential properties surrounding the site currently enjoy a range of views of the Sydney CBD skyline and general district views above the existing (and approved) Montefiore buildings on the site. The proposed increase in the height and scale of the approved building envelopes will impact on views across the site.

Concerns have been raised by Council and in public submissions about the potential impact of the proposed increases in heights on existing private views. Council commented that the proposal should include an assessment of view loss against the principles established by the court case *Tenacity Consulting Vs Warringah [2004] NSWLEC 140* (Tenacity Principles).

The proponent provided a View Impact Assessment (VIA) as part of its PPR, which assesses the proposal against the Tenacity Principles. The VIA provides a comprehensive analysis of the impacts of the proposed development on six key properties surrounding the site at Wentworth Street, King Street and Dangar Street. It has characterised the view loss as minor to negligible taking into account the height and orientation of the existing buildings, their location and available views across the top of other foreground development towards Montefiore and beyond.

The Department has reviewed the proponent's VIA and considers that two of the six properties assessed, being 5/125 King Street and 21/68-74 Wentworth Street, would experience a material change to an existing view as a result of the development (refer to **Figure 12**).

To ascertain whether the proposed view sharing impacts are reasonable the Department has applied a four-step assessment in accordance with the Tenacity Principles. The steps/principles adopted in the decision are:

1. Assess what views are affected and the qualitative value of those views.
2. Consider from what part of the property the views are obtained.
3. Assess the extent of the impact (Tenacity principles establish a spectrum from 'negligible' to 'devastating').
4. Assess the reasonableness of the proposal that is causing the impact.

An assessment of potential view impacts in accordance with the Tenacity principles is outlined below.

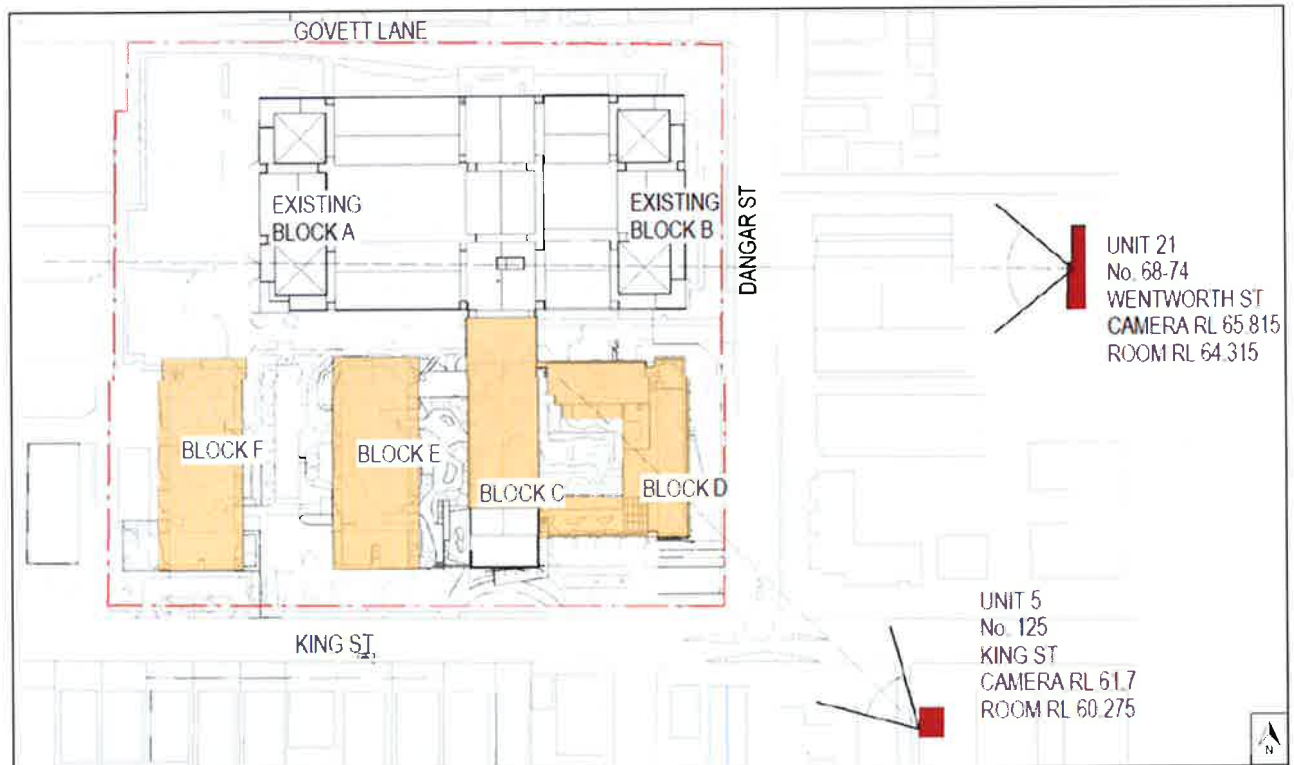


Figure 12: Location of the two properties most affected by the proposal, their relationship to the site and the direction of existing views

5/125 King Street (steps 1 to 3)

125 King Street is a four storey mid-20th century residential flat block located approximately 70 m south-east of the site. The building comprises ground floor garages and residential apartments above. The owners of 5/125 King Street have raised concerns in relation to view impacts in their submission.

Due to the orientation of the apartment, both the living room and balcony currently have an unobstructed north western distant view, towards the Sydney CBD (refer to **Figure 13**). The view itself comprises an unobstructed view of the Sydney CBD skyline, including the iconic Centerpoint Tower framed by city skyscrapers. The intervening landscape comprises the treetops within Centennial Park and rooftops of other existing developments.



Figure 13: Approved (left) and proposed (right) north west view from the balcony of 5/125 King Street

The Department considers that the view loss for 5/125 King Street is minor in nature. The proposed increase in height, above the approved Concept Plan heights, would obstruct treetops and rooftops and views of some tall buildings located south of the Sydney CBD. However, the central core element of the CBD Skyline and the iconic Centrepoint Tower would be unaffected.

21/68-74 Wentworth Street (steps 1 to 3)

68-74 Wentworth Street is a modern two to four storey residential flat block located approximately 80 m east of the site. The building is stepped to follow the fall of the land in this location and is wholly residential in use. The owners of 21/68-74 Wentworth Street have raised concerns in relation to view impacts in their submission. The owners also raised concerns the height at which the photographs have been taken (1.5 m) is too low, there is an absence of analysis from their kitchen window and the camera lens size and the corresponding depth/distance of the view captured is too wide.

Both the living room and balcony currently have an unobstructed western district view, across the subject site / above existing buildings, towards Waterloo / Surry Hills (refer to **Figure 14**). The view itself comprises a generally unobstructed district view including a smoke-stack, treetops within Centennial Park and rooftops of other existing developments. The view does not include any icons.



Figure 14: Approved (left) and proposed (right) western view from the balcony of 21/68-74 Wentworth Street

The Department considers view loss for 21/68-74 Wentworth Street is negligible in nature. The proposed increase in height, above the approved Concept Plan heights, would change the panoramic view by obstructing the lower part of the smoke-stack and a small portion of treetops and rooftops. The remainder of the panoramic district view would be unaffected.

The Department has also considered the specific concerns raised by the owners in relation to the photograph height, location and camera lens and is satisfied that:

- the 1.5 m photograph height is appropriate as it represents the eyelevel of an average height female or the below-average height male in a standing position (and it is unlikely that any minor change in eye level height would have a material bearing on the analysis of impacts from this distance);
- views from the principle living spaces are more significant than the kitchen; and
- the proponent has advised the camera used to take the photographs was a Canon EOS 450D, with a 18-55 mm lens. The capture of a wider view allows for an analysis of the proposed development in its context.

Reasonableness of proposal (Tenacity step 4)

The fourth step of the Tenacity Principles is to assess the reasonableness of the proposal that is causing the impact.

The Department notes view loss as a result of the development would range from negligible to minor and importantly, there would be no significant view impacts. In addition, the key aspects of the views,

such as district views, the Sydney CBD skyline and iconic Centrepoint Tower are a considerable distance from the subject properties and will not be adversely obscured by the proposed modified development.

The Tenacity Principles require that the question should be asked whether an improved design could provide the proponent with the same development potential and amenity and reduce the impact on the views from neighbours. The Department notes the proponent has amended the height/setbacks of the proposed building envelopes (as discussed in **Section 5.1**) to provide an acceptable built form. In addition, the Department has recommended amendments to the height and setbacks of the building envelope E (as discussed in **Section 5.1.2**)

Given that view losses are minor in nature, the Department does not consider it necessary or reasonable to require the proponent to amend the proposal or provide alternative design approaches to further lessen view loss impacts. Particularly as such a requirement may reduce the total number of ILUs or residential care beds provided by the development, which could impact the benefits arising from the proposed in the form of aged care provision.

Therefore, the Department considers the proposed impacts on view loss are reasonable and acceptable.

5.3 Traffic and car parking

Car parking provision and traffic generation were key considerations in the Department's assessment of the Concept Approval. The Department's assessment on traffic impacts concluded that sufficient car parking has been provided for the development and the proposed traffic generation would have an acceptable impact on the surrounding road network. The Commission agreed within the Department's conclusion.

Concerns have been raised in public submissions about the traffic implications of the proposed development and the impact on existing car parking pressure within the immediate surrounding streets. Both of these issues are discussed below.

5.3.1 Car parking provision

The Concept Approval allows for a total of 217 on site car parking spaces.

The Seniors SEPP includes minimum car parking rate for residential care facilities and ILUs. Council's DCP includes minimum car parking rates for childcare facilities and retail accommodation. These car parking guidelines are summarised in **Table 3**.

Table 3: Seniors SEPP and Randwick DCP Minimum car parking controls

Minimum Car Parking Controls			
Seniors SEPP		Randwick DCP	
Residential care	<ul style="list-style-type: none"> • 1 space per 10 beds; and • 1 space per 2 staff 	Childcare	<ul style="list-style-type: none"> • 1 space per 8 children (for pick-up/drop off); and • 1 space per 2 staff
ILUs	<ul style="list-style-type: none"> • 0.5 space per bedroom 	Retail	<ul style="list-style-type: none"> • 1 space per 40 m²

The proposal seeks approval for 280 on site car parking spaces (increase of 63) and reallocates car parking in accordance with the proposed increase of ILUs and reduction of residential care beds and childcare centre places (refer to **Table 4**).

Table 4: Proposed car parking provision and comparison with Concept Approval

Type	Concept Approval			Proposed Modification			Change +/-
	Nos. / GFA	Min req.	Provided	Nos. / GFA	Min req.	Provided	
Residential care	508 beds (202 staff)	185.5	197	393 beds (183 staff)	235	235	+38
ILUs	36			104 units (208 beds)			
Childcare	80 children (10 staff)	20	20	40 children (8 staff)	4 (plus 5 pick-up drop/off)	4*	-16
Retail	350 m ²	15.5	0	350 m ²	9	9	+9
Total		221	217		312	280	+63
Surplus			-4			+32	

* plus seven (four on-site and three on-street) pick-up/drop-off car parking spaces

The proposed development exceeds the DCP/SEPP minimum parking standards by 32 spaces. The Department as a policy supports reduced car parking to encourage use of public transport, walking and cycling for residents and employees. However, in this case, the Department considers it appropriate to exceed the minimum parking requirements as:

- public transport in the area is limited to bus services;
- employees work on a shift arrangement and may have shift commencement or finish times which do not correlate with public transport; and
- additional parking is required during the staff shift changeover period (typically around 2.30 pm), avoiding a need for arriving staff to wait for departing staff to vacate a space or parking on the street.

The Department has considered the specific concerns raised in submissions about the impact on on-street car parking. The Department considers the amended scheme would provide sufficient car parking for the future needs of the development and would not have an unreasonable impact on existing on-street parking pressure for the following reasons:

- the proposed number of car parking spaces exceed the DCP/SEPP minimum car parking rate to reduce the need for employees to park on the street; and
- there is an increase of two pick-up/drop-off childcare car parking spaces, from five (on-street), to seven (three on-street and four on-site).

As the child care access and parking arrangements will be subject to a future DA, the Department recommends a FEAR requiring proposed future vehicular access arrangement for the childcare centre should not result in a reduction in the number of existing long term (i.e. non pick-up / drop-off) on-street car parking bays.

The Department also recommends that Term of Approval 1 be updated to reflect the increase in the number of car parking spaces discussed above.

5.3.2 Traffic generation

The application includes a Traffic Impact Assessment (TIA), which identifies the specific traffic issues relevant to the proposed modification.

The Concept Approval is estimated to generate a total of 56 additional vehicle movements per hour during the AM peak and 62 additional vehicle movements per hour during the PM peak.

When compared to the Concept Approval, the proposed modification is predicted to generate up to 10 additional vehicle movements per hour during the AM peak and two vehicle movements less per hour during the PM peak.

The Department has reviewed the applicant's TIA and also referred the application to RMS and TfNSW who have not raised any objection to the proposed modification.

The Department is satisfied that the expected change in traffic generation is minor in nature and would have a negligible impact on the operation of the local road network. The Department therefore considers the traffic generation impacts to be acceptable.

5.4 Other

Change in type and mix of aged care

The proposal seeks to amend the type of aged care accommodation provided within the site. The modification includes a significant reduction in RAC beds with an associated increase in ILUs as shown in **Table 5** below.

Table 5: Comparison between the approved and proposed types of aged care accommodation

Type	Concept Approval	Proposed Modification	Change +/-
RAC beds	187	17	-170
Specialist dementia care beds	94	109	+15
ILUs	36	104	+68

The Department considers the proposed reduction in RAC beds and increase in ILUs is acceptable as ILUs allow active people to age-in-place and to call upon necessary services and facilities as their personal requirements change. Importantly, it also allows the transition of people to the on-site aged care facility.

The increase in specialist dementia care beds will also provide a high level of care to meet the demands of the aging population.

Privacy

Concerns were raised in public submissions that the proposed modifications to building envelopes would result in a loss of privacy to surrounding residential properties.

The Department notes that the only residential property directly adjoining the site is Centennial Apartments to the west, all other residential properties are located on the opposite side of existing roads (Dangar and King Streets) to the site. The proposal provides between 22.2 m and 34 m separation distances between the proposed building envelopes and neighbouring properties, as shown in **Figure 15**.



Figure 15: Building separation distances between the proposed building envelopes and neighbouring residential properties

The Department is satisfied that the proposed building envelopes are located an appropriate distance away from neighbouring properties and will protect privacy as:

- the proposed building envelopes are separated from neighbouring buildings by approximately 22.2 to 36 m which exceeds the Apartment Design Guide recommended minimum separation distance for buildings up to eight storeys (18 m); and
- FEAR 2 within the existing Concept Approval requires that the future DA(s) to Council incorporate adequate privacy measures to the western end of building envelope E (now F) to ensure that a reasonable level of privacy is maintained. The Department recommends that FEAR 2 be updated to take account of the building envelope name change from 'E' to 'F'.

Light and noise pollution

Concerns have been raised in submissions about the potential intensification of the impacts of light spill and operational noise from site.

The Department notes the proposal relates to a Concept Plan only and light spill and noise impacts were considered as part of the Department's assessment of the original Concept Plan.

Future DA(s) will be submitted for the detailed design of buildings within the building envelopes, which will include details addressing light spill and operational noise. The Department is satisfied the separation distance between the building envelopes and neighbouring properties will minimise any light spill or noise impacts and that Council can address these amenity impacts in more detail in the future DA(s).

Flooding

Concerns were raised in public submissions about the potential for flooding or movement of neighbouring buildings due to the construction of the proposed development.

The Department notes the site is not indicated as a flood affected area in RLEP and FEAR 5 requires any future development application to comply with Council's stormwater requirements. Further, matters relating to construction protection of neighbouring properties from movement or damage are best dealt with at the future DA stage.

Use of the tenancy adjacent to the public square

The proposal seeks to broaden the use of the approved 350 m² retail tenancy fronting the public square to include retail, business, commercial or community uses.

Council has raised concern that the use of the tenancy in conjunction with the public square should provide a wider community benefit, and this is best achieved through allowing local shops. Public submissions also raised concern with the proposed range of uses and the use of the square for retail/commercial uses.

The Department acknowledges the concerns raised by Council and the community, however notes the retail space is located within the ground level of Building D fronting onto the public square. No retail or commercial uses are proposed within the square itself. The Department considers that the design of this tenancy ensures both the public square and this tenancy will be accessible to both resident/visitors to Montefiore and the surrounding community.

The Department considers that shops, services and community uses could all be appropriate uses in this location and therefore supports the proposal to provide flexibility for the use of this space for any range of retail, business/commercial or community uses.

Exhibition of PRR

Concerns were raised in public submissions that the Department did not exhibit the revised scheme as proposed by the PPR.

The Department considered that it was not necessary to exhibit the PPR as it represents a reduction in the proposed development from what was originally exhibited that would not cause additional impacts.

Other minor amendments to conditions

The Department recommends that Modification 2 and 3 (which outline the maximum building heights and number of child care places, respectively) be updated to take account of the proposed changes to building heights and reduced child care number places within this modification application.

The Department also considers that as matters relating to height and the childcare centre places have been considered as part of this report, these conditions would be better cited within Schedule 2, Terms of Approval.

6. CONCLUSION

The Department has assessed the merits of the proposal taking into consideration the issues raised in all submissions and is satisfied the impacts have been satisfactorily addressed within the proposal and the recommended conditions.

The proposed modification involves a reduction of RAC beds replaced by a higher proportion of ILUs and special care/dementia beds than the previous approval. The increase in ILUs in place of RAC beds will provide benefits to the community in terms of allowing people to age-in-place independently while having ready access to the support services offered by the Montefiore facility. The increase in special care/dementia beds also caters for an increased demand for high care services in the locality.

The reconfiguration and increase in height of the proposed building envelopes, is considered acceptable subject to a modification to ensure the street frontage height along King Street is maintained consistent with the Concept Approval. The proposed additional height is supported away from the street frontage for building envelope E and at the corner of King and Dangar Streets (building envelope D) subject to future DA(s) providing sufficient setbacks along King Street to ensure the upper levels are not readily visible from the streetscape, and the uppermost floor on the corner element is visually recessive to the levels below. Subject to this modification and detailed design within future DA(s), the proposal will provide for an acceptable scale of development, an improved landscaped setting, and an appropriate built form relationship to the low scale character of the neighbouring sites.

The minor loss of views caused by the building envelope is acceptable given the key and iconic elements of the views will be unaffected. The reduction in the size and capacity of the child care spaces will result in less traffic and other amenity impacts on surrounding residents and future residents of the ILUs. The proposed car parking provision will be adequate for the needs of the site. The Department recommends a FEAR to ensure existing on-street car parking spaces are unaffected by the development.

Overall, the Department is satisfied the amendments to the Concept Approval are acceptable and will maintain a satisfactory level of amenity to neighbouring properties and would not have a negative visual impact on the existing King and Dangar Street streetscapes.

7. RECOMMENDATION

It is recommended that the Commission, as delegate of the Minister for Planning:

- a) **consider** the recommendations of this report;
- b) **approve** the modification application (MP09_0188 MOD2) under section 75W of the EP&A Act, having considered all relevant matters in accordance with (a) above; and
- c) **sign** the attached Instrument of Modification at **Appendix B**

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