

MODIFICATION REQUESTS:

61 Mobbs Lane, Epping (former Channel 7 site) – Buildings 4 and 5,

Buildings 4 and 5 (MP08_0257 MOD 3)

Buildings 7 and 8 (MP10_0158 MOD 1)



Description of Modification Requests

- MOD 3 – Strata subdivision – staged development
- MOD 1 – Strata subdivision

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

November 2011

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EXECUTIVE SUMMARY

This report is an assessment of two section 75W modification applications (MP08_0257 MOD 3 & MP10_0158 MOD 1) lodged by Meriton Apartments (the proponent) requesting a modification to project approval MP08_0257, which permitted the construction of buildings 4 & 5, and project approval MP10_0158, which permitted the construction of buildings 7 and 8. The site is located at 61 Mobbs Lane, Epping.

The purpose of modification (MP08_0257 MOD 3) is to allow for the strata subdivision of buildings 4 and 5 (by way of a strata plan) and to approve staged subdivision for buildings 7 and 8. The purpose of modification (MP10_0158 MOD 1) is to approve a strata plan of subdivision for buildings 7 and 8.

As the modification applications are interrelated, the department considers it appropriate that both are assessed concurrently.

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (the Act), section 75W of the Act as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75W of the Act.

Documents, including the plans were made publicly available on the department's website, and consultation was undertaken with Parramatta City Council (Council). Council commented on both modifications and raised no objections.

The department has assessed the merits of the proposed modifications and notes that no works are proposed and the only changes to both of the Instruments of Approval are the references to strata subdivision and the inclusion of subdivision plans.

Additional conditions are recommended to ensure the car park entrance for buildings 7 and 8 reflects the approved plans; visitor car parking in the basement for buildings 7 and 8 is illustrated as common property; and future community titled subdivision of the road reserves for buildings 4 and 5 and buildings 7 and 8, must illustrate the car parking spaces as visitor car parking only.

On the basis the recommended conditions above are imposed, the department considers that the proposed modification applications should be approved, as outlined in the recommended modifying Instruments of Approval.

1. BACKGROUND

1.1 The Site

The site, known as 61 Mobbs Lane, is situated on the northern side of Mobbs Lane, approximately 24km from the Sydney CBD within the Parramatta Local Government Area (see Figure 1). The site was previously utilised by Channel 7 as television studios and associated facilities.

The site has an area of 8.9ha, with a frontage of approximately 500 metres to Mobbs Lane. The surrounding development is predominantly low density detached residential dwellings which are mainly characterised by Californian Bungalows and Federation style architecture. A TAFE Campus adjoins the site on the north-eastern boundary.

The eastern proportion of the site is generally flat, while the western portion is undulating. The site has a change in elevation of approximately 30 metres from east to west. A drainage line flows into Terry's Creek along the north-western section of the site.

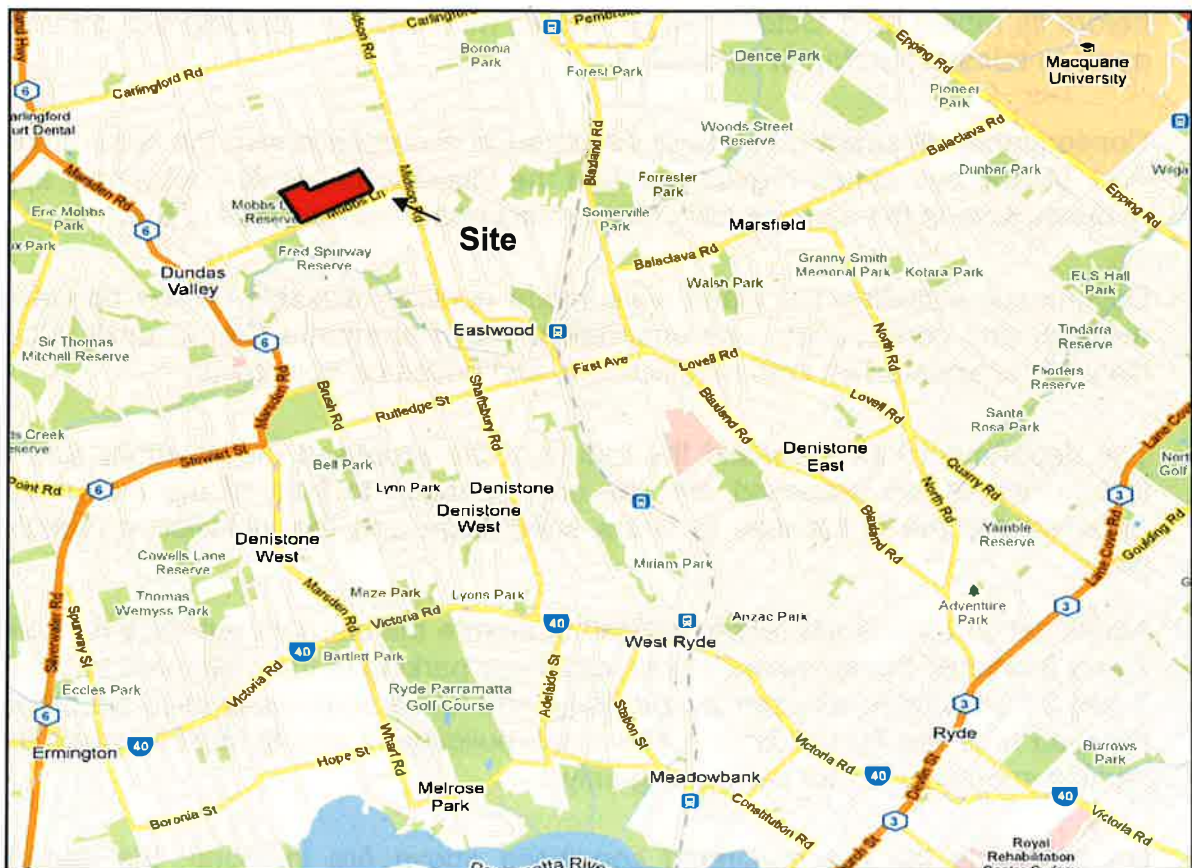


Figure 1: Site location

1.2 Approval History

On 1 August 2006, the site was listed as a State Significant Site in Schedule 3 of the State Environmental Planning Policy (Major Projects) 2005 (now known as the Major Development SEPP).

On 22 August 2008, the then Minister for Planning approved a Concept Plan (MP05_0086) for the site for the construction of residential buildings, amenities, a child-care centre and landscaping.

Buildings 4 and 5

On 15 September 2010, the Planning Assessment Commission approved the construction of residential flat buildings 4 and 5, located in the central eastern part of the site (**Figures 2 and 3**), providing a total of 134 units, 201 basement car parking spaces and landscaping (MP 08_0257).

A modification (MOD 1) to MP08_0257 was subsequently approved on 27 January 2011, which approved modified the timing for the completion of the required Voluntary Planning Agreement with council.

A further modification (MOD 2) to MP08_0257 was subsequently approved on 20 June 2011, which approved a number of internal and external design amendments to buildings 4 and 5.

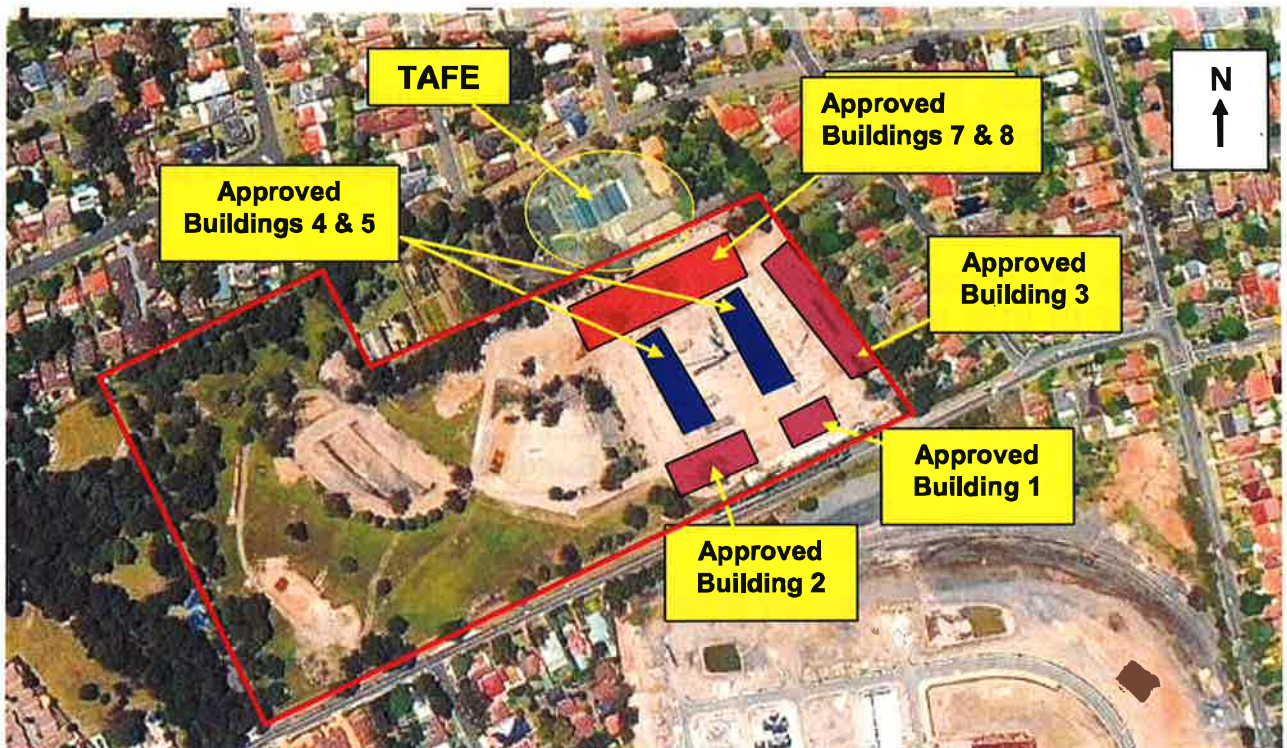


Figure 2: Site layout of buildings 4, 5, 7 & 8



Figure 3: Buildings 4 & 5

Buildings 7 and 8

On 12 July 2011, the Planning Assessment Commission approved the residential development for the construction of buildings 7 and 8 (MP10_0158), providing a total of 127 residential units, 173 basement car parking spaces and 11 parking spaces at street level, excavation and associated landscaping.

On 18 October 2011, Meriton (the proponent) lodged a section 75W application (MP10_0158 MOD 1) to amend the description of the development to acknowledge subdivision pertaining to buildings 7 and 8, and to obtain approval for the strata subdivision plan.

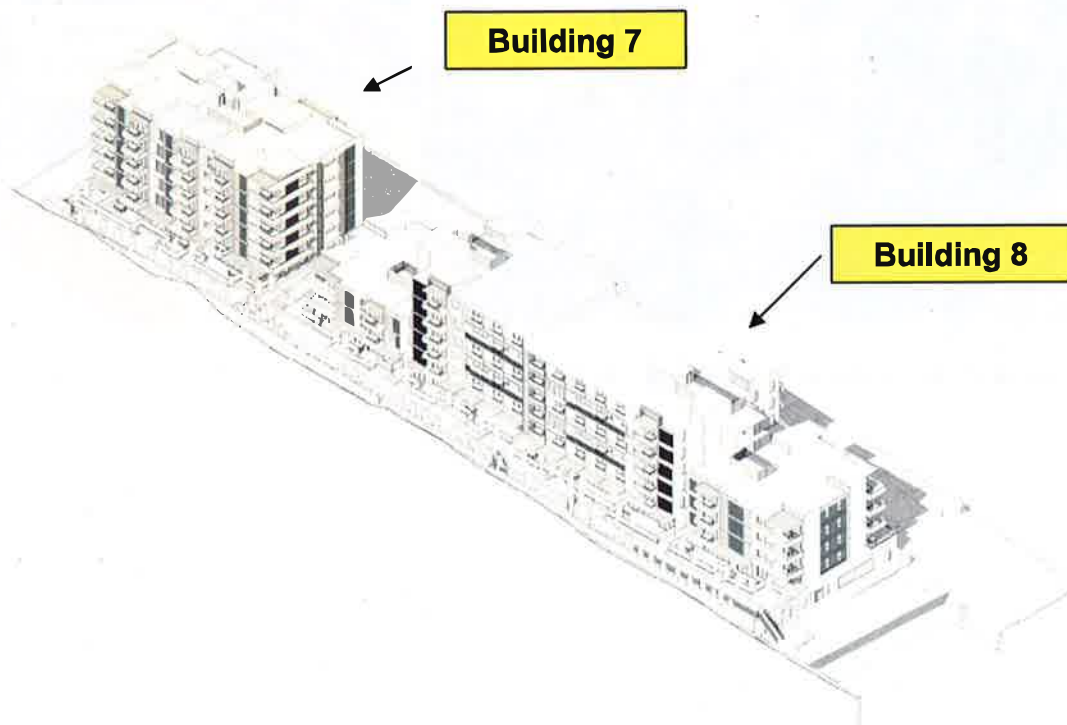


Figure 4: North Elevation of Buildings 7 & 8

1.3 Justification for Modification

The proponent's justification for these modifications is to reflect the construction phases of the development and to demarcate between private allotments (strata lots) and common property boundaries. The proponent also wishes to keep buildings 4, 5, 7 and 8 under one strata scheme.

2. PROPOSED MODIFICATIONS

2.1 Modification Descriptions

MP08_0257 MOD 3

The purpose of MOD 3 is to enable strata subdivision of buildings 4 and 5 (by way of a strata plan) which have been nearly constructed, and to approve staged subdivision for buildings 7 and 8 by incorporating additional land where buildings 7 and 8 are to be located (Lot 136).

The strata plan identifies which portions of buildings 4 and 5 are composed of individual lots and which portions will be common property (**Figure 9**).

The proposed lots include apartments, garages and storerooms. The common property elements include stairwells, driveways, roofs and gardens.

A total of 29 subdivision plans have been submitted, including one plan which identifies the future development lot (Lot 136) on which buildings 7 and 8 will be constructed (**Figure 6**). It is this plan which will provide for the staged subdivision of buildings 7 and 8.

Ordinarily, staged strata subdivision would not be needed as there are presently two applications for strata subdivision i.e. MOD 3 and MOD 1. However, in this case, it has been requested by Meriton as they wish to keep buildings 4, 5, 7 and 8 under the one strata scheme.

Accordingly, MOD 3 seeks approval to amend the description of the project approval as well as Condition A2, by including strata subdivision – staged development, in the description and approving the strata subdivision plans.

Certification of the strata development contract for buildings 7 and 8, including indicative plans also forms part of the modification application. An example of a Strata Development Contract Plan submitted is found at **Figure 7**. Further consideration of the Strata Development Contract is provided in section 3.4.

MP10_0158 MOD 1

The purpose of MOD 1 is to enable strata subdivision of buildings 7 and 8 (by way of a strata plan). Construction of buildings 7 and 8 has not yet commenced.

The strata plan identifies which portions of buildings 7 and 8 are composed of individual lots and which portions will be common property (**Figure 11**). The proposed lots include apartments, garages and storerooms. The common property elements include stairwells, driveways, roofs and gardens. A total of 23 subdivision plans have been submitted.

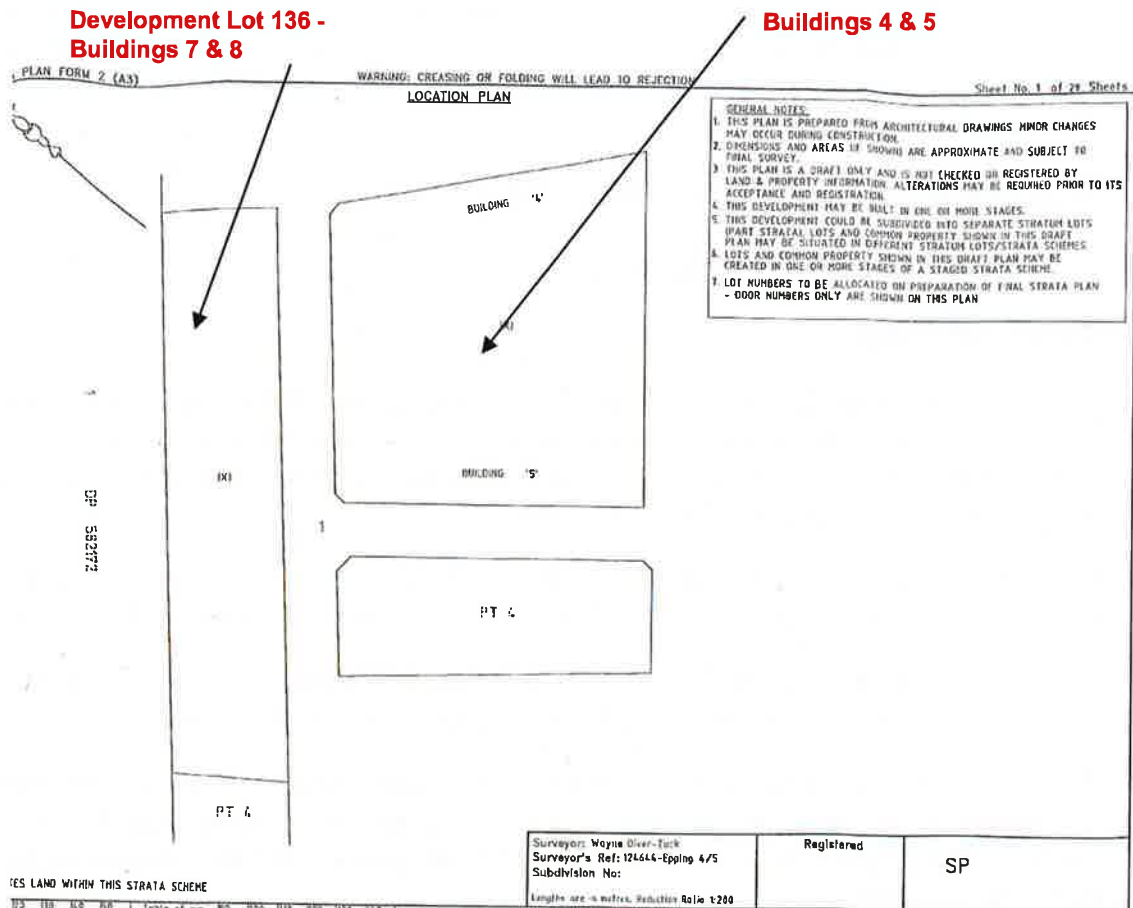


Figure 5: Location plan of buildings 4 & 5 and development lot 136

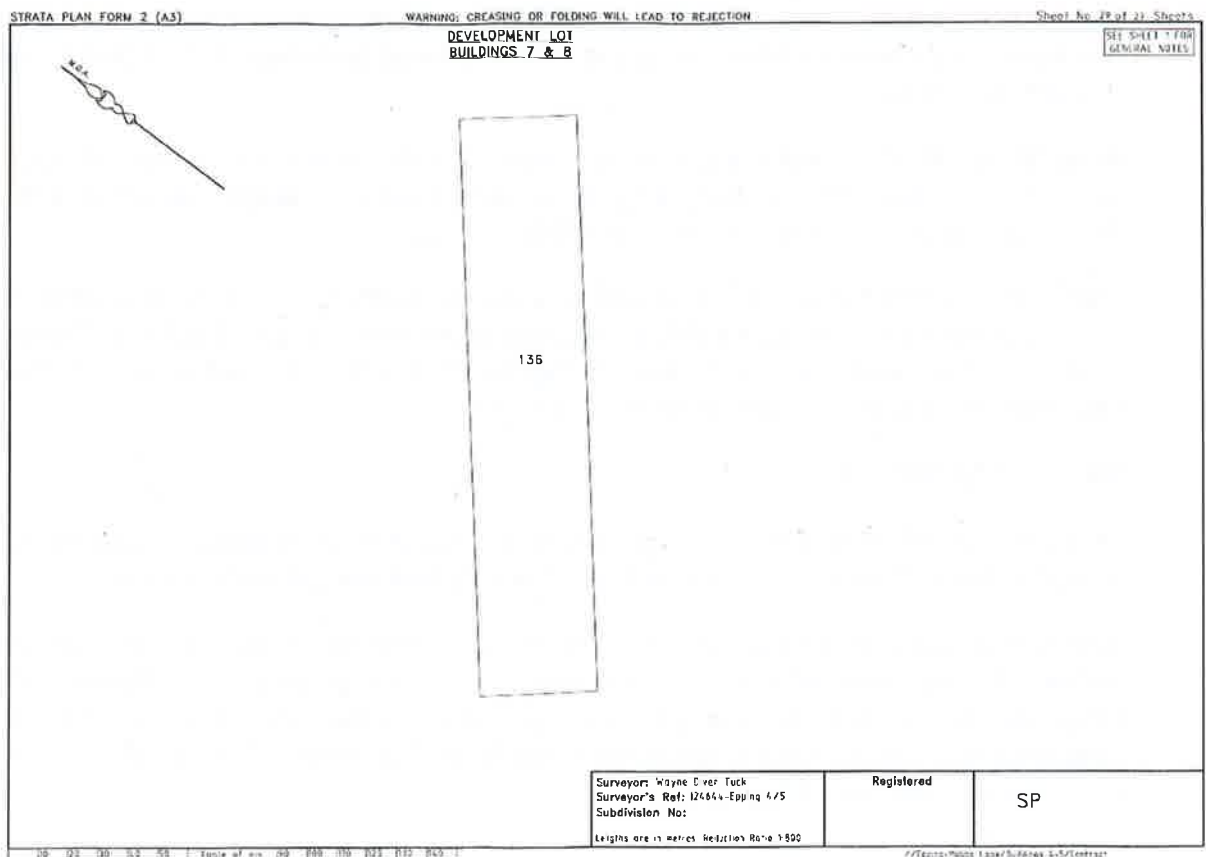


Figure 6: Development Lot 136 – Buildings 7 & 8

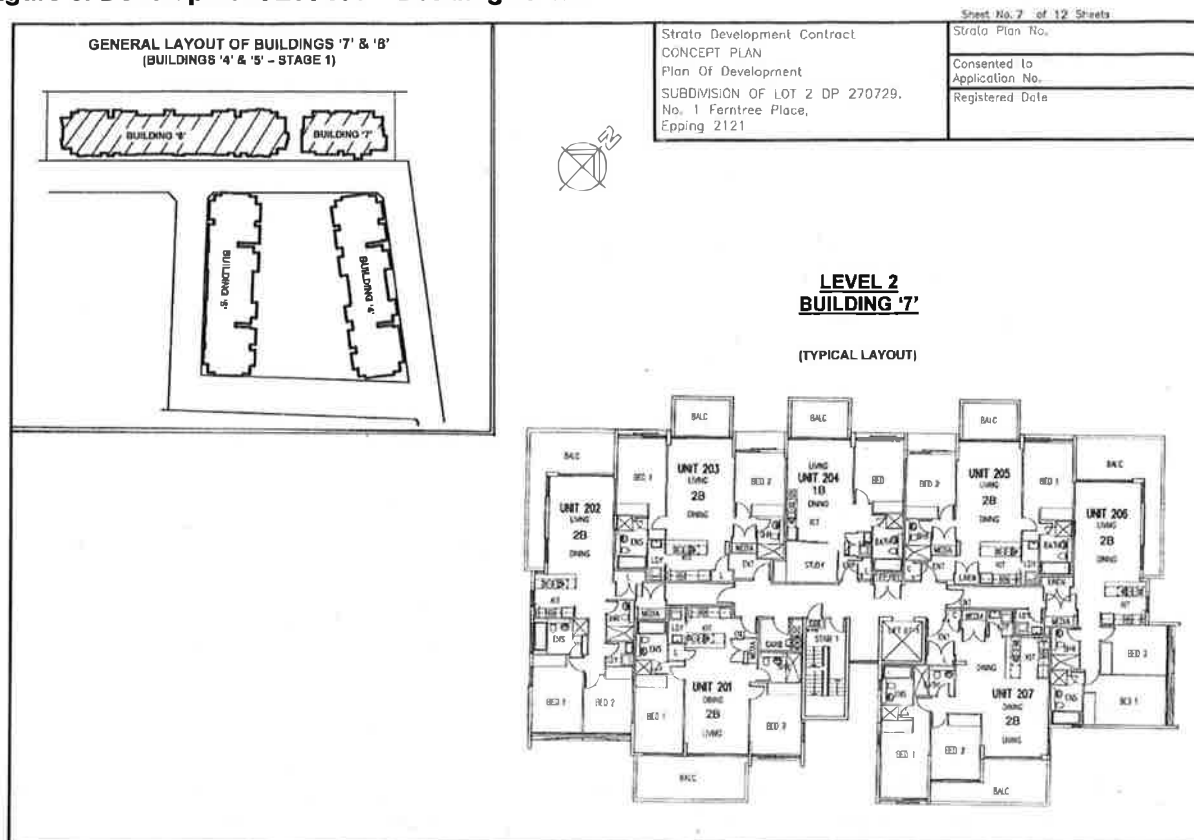


Figure 7: Strata Development Contract Plan for Buildings 7 & 8

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

Section 75W(2) of the Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project as modified would be consistent with the original approval.

It is considered that the proposed modifications are consistent with the original approvals, given subdivision does not radically transform the approved projects. However, as the proposed modifications seek to amend the description of the development to include strata subdivision, and include references to the subdivision plans, the modifications require the Minister's approval.

It is also considered that the inclusion of the development lot (i.e. proposed Lot 136) is within the scope of power under section 75W. Further consideration of this matter is provided at section 5.

3.2 Environmental Assessment Requirements

Section 75(3) of the Act provides the Director-General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. Environmental Assessment

Requirements were not issued for these modifications as the proponent had addressed the key issues associated with the modification requests.

3.3 Delegated Authority

The Minister delegated his functions to determine a modification request under section 75W of the Act where:

- The relevant local council has not made an objection; and
- A political disclosure statement has been made, but only in respect of a previous related application, and
- There are less than 10 public submissions in the nature of objections.

There have been no submissions received from the public and although council has made submissions this is only in relation to car parking, and council has not made an objection to the proposals. A political disclosure statement has been made but only in respect of a previous related application and not the subject modification application.

Accordingly, the applications are able to be determined by the Deputy Director-General, Development Assessment & Systems Performance, under delegation.

3.4 Strata Act

MOD 3 requests approval for subdivision of buildings 4 and 5 which are located on an approved Community Title lot (Lot 2) and staged subdivision of buildings 7 and 8. Under section 28B of the *Strata Schemes (Freehold Development Act) 1973* (NSW) (Strata Act), a consent authority must not, at the same time, grant development consent for the subdivision of land by a strata plan and the subsequent subdivision of a lot in that plan by a strata plan of subdivision unless:

- (a) the lot intended to be subdivided is identified in the proposed strata plan as a development lot, and
- (b) the development application is accompanied by a proposed strata development contract.

MOD 3 contains the requisite proposed strata plan (i.e. the development lot 136) and strata development contract. As MOD 1 only seeks approval for strata subdivision, section 23B of the Strata Act does not apply.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the Act and clause 8G of the Environmental Planning and Assessment Regulation 2000, the modification requests were made publically available on the department's website.

The department also consulted with council, who made submissions in relation to the modification applications.

4.2 Public Authority Submissions

Two submissions were received from council in relation to each application.

Parramatta City Council

Council raised no objections to MOD 3 and MOD 1 provided that the strata plans reflect the approved plans for construction and car parking is appropriately allocated to the dwellings.

The department has reviewed the proposed strata plans, including car parking arrangements, and is satisfied that they are consistent with the approved number of car parking spaces, notwithstanding the changes to the entry and exit of the basement car park for buildings 7 and 8. Further consideration of this issue is provided at section 5.2.

4.3 Public Submissions

No submissions were received from the public.

5. ASSESSMENT

5.1 Subdivision

MOD 3 seeks approval for strata subdivision of buildings 4 and 5 on Lot 2, and the staged subdivision of buildings 7 and 8. Buildings 7 and 8 are located on the other part of Lot 2, and will be constructed as the future development lot (Lot 136).

While the strata subdivision of buildings 7 and 8 is being dealt under MOD 1, the inclusion of additional land (Lot 136) under MOD 3 is considered within the scope of power under section 75W for the following reasons:

- Inclusion of Lot 136 does not radically transform the approval of buildings 4 and 5
- The construction of buildings 7 and 8 are subject to their own separate project approval (MP10_0158)
- The strata subdivision of buildings 7 and 8 is the subject of a separate section 75W application (albeit the application is being considered in this report)
- The inclusion of Lot 136 does not approve any development on the Lot as there is no subdivision or construction approved by including the lot in the approval of buildings 4 and 5.

The proposed strata subdivision of the buildings will result in development that is substantially the same as the original approved developments. A comparison of the approved plans and strata plans is found at **Figures 8 –13**.

The department has reviewed the MOD 3 and MOD 1 strata plans and considers them to be generally consistent with the approved plans. On this basis, the proposed strata subdivision of buildings 4 and 5, staged subdivision of buildings 7 and 8 (MOD 3), and strata subdivision of buildings 7 and 8 (MOD 1) is considered appropriate and is supported.



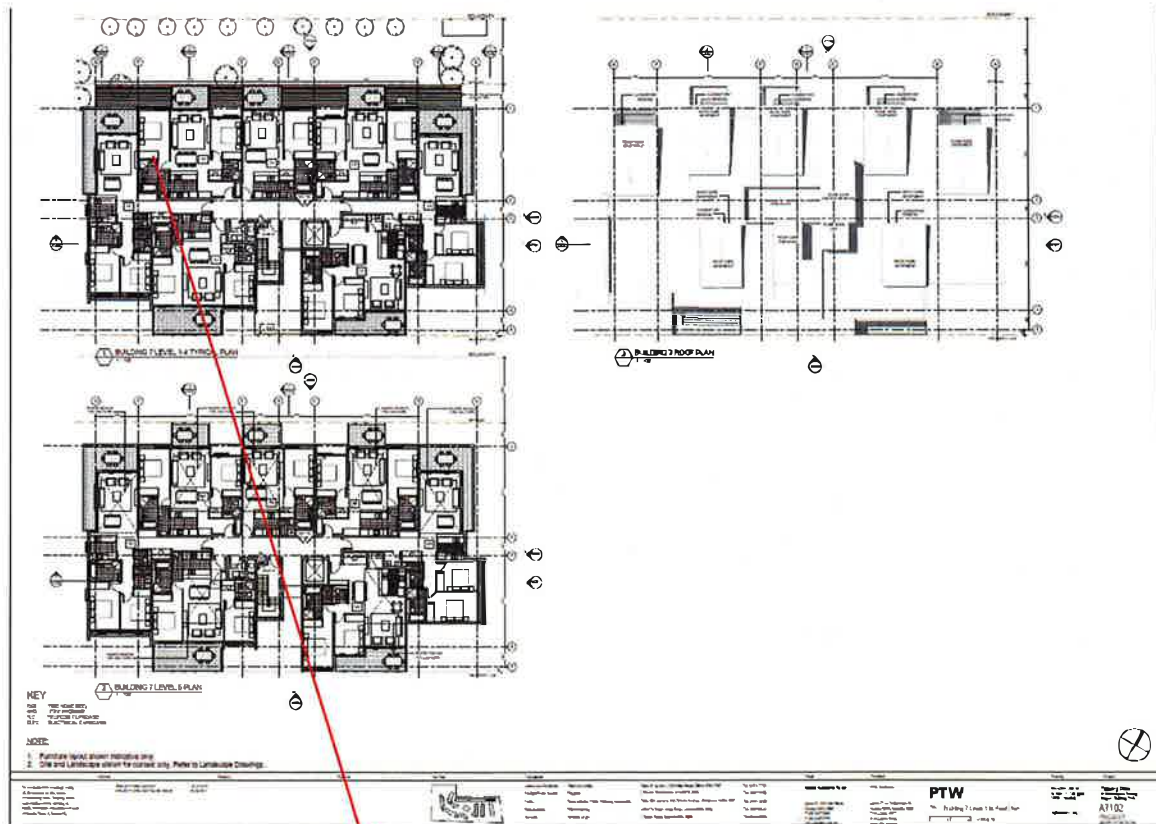


Figure 10: Approved Building 7 level 1 plan

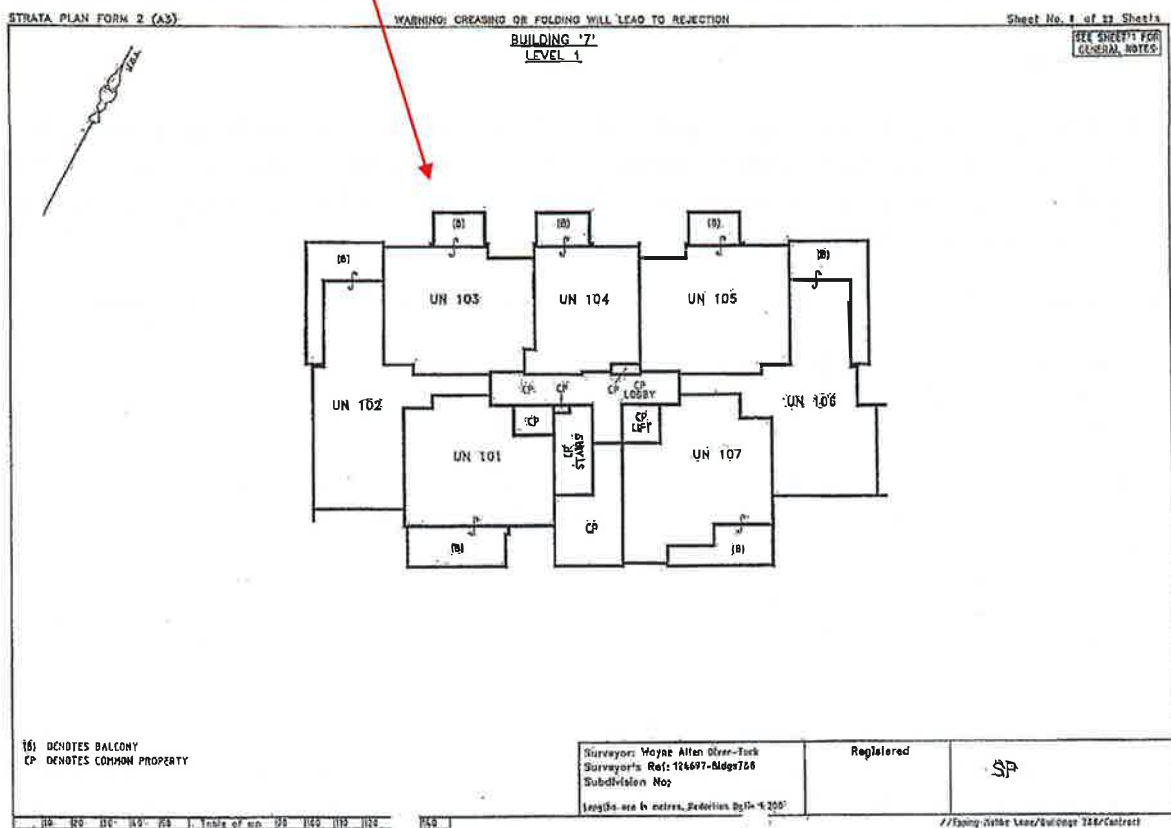


Figure 11: Proposed strata plan of Building 7 level 1 (part)

5.2 Car parking

In both of its submissions lodged in response to the modifications, council raised no objection to the strata subdivisions, providing car parking is appropriately allocated to dwellings and in accordance with the approved plans.

Buildings 4 and 5 were approved with 201 basement car parking spaces allocated to the units, and 23 visitor car parking spaces which are at street level adjacent to the buildings. Unit car parking allocation for Buildings 4 and 5 is as follows:

Bedroom	Units	Approved car spaces	Strata plans
1 bedroom	24	24	-
2 bedroom	56	69	-
3 bedroom	54	54	-
Visitor	N/A	23 on-street	-
Total	134	224* (201)	201 (basement only)

*The total amount of car parking for residents is 201 spaces – all within the basement levels

The strata plans (sheets 2-6) illustrate 201 basement car parking spaces which are consistent with the approved plans. The 23 visitor spaces are not shown on the strata plans as they are outside of the site. Meriton has confirmed that the road reserves around buildings 4 and 5 will be Lot 1 or association property within a community subdivision.

Buildings 7 and 8 were approved with 173 basement car parking spaces, including 13 spaces for persons with a disability, 17 visitor spaces and one car wash bay. A further 11 visitor spaces are at street level adjacent to the buildings. Unit car parking allocation for Buildings 7 and 8 is as follows:

Bedroom	Units	Approved car spaces	Strata plans
1 bedroom	10	10	-
2 bedroom	117	145	-
Visitor	N/A	28 (17 basement and 11 on-street)	-
Car wash bay	N/A	1	-
Total	127	184 (173 basement)	173 (basement only)

The strata plans (sheets 2-6) illustrate 173 basement car parking spaces which are consistent with the approved plans. The 13 spaces for persons with a disability are also consistent with the approved plans. The 17 visitor spaces in the basement are not shown as common property on the strata plans and so the department will impose a condition requiring these spaces to be notated as common property prior to the issue of a Strata Certificate.

Although it is a requirement of the Certifying Authority to ensure the approved plans are consistent with the strata plans prior to the issue of a Strata Certificate, the department will nevertheless impose a condition requiring Strata Plan Sheet 4 to be amended to reflect the approved car park entrance and entrance as shown on the approved plans. This will need to be submitted to the Director-General and certifying authority prior to the issue of a Strata Certificate.

Figure 12: Approved Drawing A8101 – Basement car park entrance in south-western corner



Figure 13: Sheet 4 of 23 – Car park entrance is in north-western corner.

In relation to on-street visitor parking for Buildings 4 and 5 (23 spaces) and Buildings 7 and 8 (11 spaces) the department will impose a condition so that the future community title subdivision for the road reserves illustrates the car parking spaces as visitor parking. Confirmation of this requirement will be required prior to the issue of an Occupation Certificate for the buildings.

6. CONCLUSION

The department has considered the modification applications and has considered the key issues associated with these modifications. The proposed strata subdivision plans are consistent with the approved plans, notwithstanding the car park entrance for buildings 7 and 8. The MOD 3 application is also accompanied by the requisite information required pursuant to the Strata Act.

Additional conditions are recommended to ensure the car park entrance for buildings 7 and 8 reflects the approved plans; visitor car parking in the basement for buildings 7 and 8 is illustrated as common property; and future community titled subdivision of the road reserves for buildings 4 and 5 and buildings 7 and 8, must illustrate the car parking spaces as visitor car parking only.

It is therefore recommended that the modification applications be approved, as outlined in the recommended Instruments of Modification Approval.

7. RECOMMENDATIONS

It is recommended that the Deputy Director-General, Development Assessment & Systems Performance:

- a) **Consider** the findings and recommendations of this report;
- b) **Approve** the modifications (MOD 3 and MOD 1), under section 75W of the *Environmental Planning and Assessment Act, 1979*, and;
- c) **Sign** the attached Instruments of Modification Approval (**Tag A and Tag B**).



16/11/11

Team Leader
Metropolitan and Regional Projects North



Director
Metropolitan and Regional Projects North

17.11.11

Executive Director
Major Projects Assessment