



**Planning &
Infrastructure**

MODIFICATION REQUEST:

***Lot B DP 368446 and Lot 1 DP 876482
120-128 Herring Road, Macquarie Park***

***MP09_0217 MOD 2 - Modification to
Subdivision to Create Community Title for a
Retail / Residential Development***



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

March 2012

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1. BACKGROUND

1.1 The Site

The site is located at 120-128 Herring Road, Macquarie Park within the Ryde Council LGA, approximately 14 km north-west of the Sydney CBD and 6 km north-west of Chatswood CBD. The site is in close proximity to Macquarie University, the Macquarie Shopping Centre, the Macquarie University Railway Station, Epping Road and Lane Cove National Park (refer **Figures 1** and **2** below). The site comprises part of the existing Morling Theological College, and has a total area of 17,253m².



Figure 1: Regional Context – aerial looking south-east to Sydney CBD

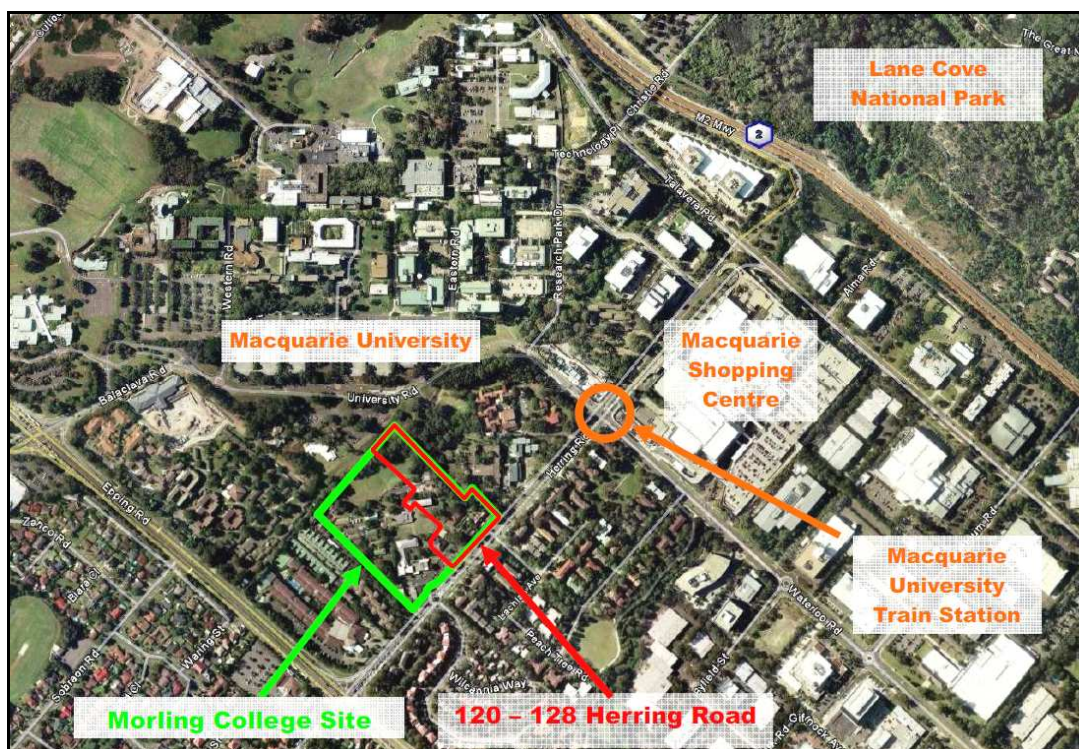


Figure 2: Site Locality Plan

1.2 Previous Approvals

On 20 January 2011, the Deputy Director-General, Development Assessment and Systems Performance approved a suite of applications in relation to the holistic redevelopment of the subject site. These include:

- **Concept Plan (MP09_0195)** for a mixed use residential / retail development comprising 4x12 storey and 1x9 storey building envelopes with basement car parking, road works and landscaping;
- **Project Application (MP09_0217)** for staged subdivision into 7 allotments comprising 5 residential allotments and 2 road allotments for the access road; and
- **Project Application (MP09_0218)** for the construction of a residential development including demolition and excavation; construction of a 12 storey residential / retail building (Building A) providing 10,367 sqm of GFA, 123 dwellings and a 96m² retail tenancy. The approval also includes a 3 level basement car park for 152 cars and ancillary services and facilities, and the construction of the south-eastern portion of the new local public access road, footpath and cycleway off Herring Road.

1.3 Previous Modifications

On 11 July 2011, the Director General approved the following modification applications:

- **Concept Plan (MP09_0195) MOD 1** for alterations to the building envelopes and gross floor areas for buildings B, C, D and E in response to modification requirements of terms of approval B1 and B2;
- **Project Application (MP09_0217) MOD 1** for the addition of a notation for an access easement across proposed Lot 11 as required by conditions of consent and rectification of minor drafting errors; and
- **Project Application (MP09_0218 MOD 1)** for modifications to Building A to increase the number of units and gross floor area, modify the dwelling mix, and basement car park level and loading spaces, and minor façade changes.

1.4 Other Modifications Currently Under Assessment

On 9 December 2011, Toga Macquarie Developments Pty Ltd lodged a Modification Application (**MP09_0195 MOD 2**) seeking modifications to the Concept Plan approval relating to Building C to provide seven additional residential units, increase the building height to part 12 / part 13 stories and provide an additional part level of parking. This application is currently under assessment.

On 6 December 2011, Toga Macquarie Developments Pty Ltd lodged a Modification Application (**MP09_0218 MOD 2**) seeking modifications to the configuration of the basement levels of Building A. This application is currently under assessment.

On 23 December 2011, Toga Macquarie Developments Pty Ltd lodged a Modification Application (**MP09_0218 MOD 3**) seeking modifications to the dwelling mix of Building A which will result in two additional units, changes to the layout of the basement levels to provide two additional car parking spaces and bicycle / storage spaces, and to modify the energy rating of clothes dryers. This application is currently under assessment.

The development is currently at pre-construction stage.

2. PROPOSED MODIFICATION

The application originally sought to amend the type of subdivision, from Torrens Title to Community Title with associated modifications to lots and easement and associated subdivision plans into a total of 7 lots in 3 stages (Stages 1, 1A and 2).

Since submitting the application, the Proponent identified that due to the subject site being progressively purchased, the proposed community title subdivision above will require the current owner of the site to become a member of the community associate for a period of time (to which they have not agreed to). As a result, the Proponent has amended the application as follows:

The previously approved Torrens Title subdivision and the staging are now to be retained as follows:

- Stage 1 - Torrens Title Subdivision of the development site from Morling College and creation of 3 lots;
- Stage 1A - Torrens Title Subdivision of Lot 1 into 3 allotments; and
- Stage 2 - Torrens Title Subdivision of Lot 2 into 4 allotments.

The following stages are proposed:

- Stage 3 comprising:
 - Community Title Subdivision of Lot 10 to create Lot 2 and Part Lots 2, 3 and 4;
 - the amalgamation of Lots 20, 21 and 23 to create Community Title Subdivision for Community Lot 1 and Lot 6; and
 - Community Title of Lots 11, 12 and 22 (to create Lots 3, 5 and 7 respectively).
- Stage 4 - Community Title Subdivision of Lot 6 into 3 allotments.

The proposal will result in the creation of 10 Community Title allotments, as detailed in **Tables 1** and **2** below. The proposal is for additional lots than that previously approved in the Project Approval (MP09_0217) due to the addition of Community Lot 1 for the open space area; Part Lots 2 and 3 which relate to the easements for support and shelter, services, and fire stairs and passages for Building A and B; and Part Lot 4 for the retail component of Building A (**Figure 3** below).

The Proponent seeks to create a Community Title subdivision to allow for the sharing of facilities and services across all sites within the proposed subdivision, in particular the maintenance requirements which can be evenly distributed to all occupants of the site.

The proposed Community Title Subdivision for Stages 3 and 4 are as follows:

Table 1: Stage 3

The application seeks to provide a Community Title subdivision of Lots 10, 11, 12, 20, 21 22 and 23 as follows:

Lot	Proposed Use of Lot	Area
Community Lot 1	Future open space area located to the western end of the site.	2,075 m ²
Development Lot 2	Residential Building A. Part of Building A will be located over Development Lot 4. Part Lot 2 and 3 will also accommodate parts of Building A.	1,973 m ² - 624 m ²
Development Lot 3	Building B is a development lot between Lots 2 (east) and Lot 6 (west). Building B will also be situated over Part Lot 2 and 3. Easement (A) will be maintained along the western boundary of this Lot for access. This easement provides a public thoroughfare between the new road and the northern boundary of the site.	2,209 m ²
Development Lot 4	Retail stratum lot of Building A.	328 m ²
Development Lot 5	This Lot forms Stage 1 of the future road lot. An easement for access will be maintained over this lot. This lot will be dedicated to the City of Ryde together with Lot 10, as a public road in accordance with MP09_0195.	1,030 m ²
Development Lot 6	Residual lot to be further subdivided in Stage 4.	6,022 m ²
Development Lot 7	Building E is a development lot located at the corner of Herring Road and the proposed new road.	2,654 m ²

Notes:

- Lots 2, 3 and 4 will be in stratum with Part lots and be subject to a strata management statement.
- Lots 2, 3 and 4 are affected by Global Easements for shelter, services, and fire stair and passages.

Table 2: Stage 4

The application seeks to provide a Community Title subdivision of Lot 6 into 3 lots as follows:

Lot	Proposed Use of Lot	Area
Development Lot 8	Building D is a development lot between Lot 9 (east) and Community Lot 1 (west). This lot has an Easement along its southern boundary for drainage services. Future development on this lot will include a shared basement area with adjoining Lot 9.	1,731 m ²
Development Lot 9	Building C is a development lot between Lot 3 (east) and Lot 8 (west).	2,654 m ²

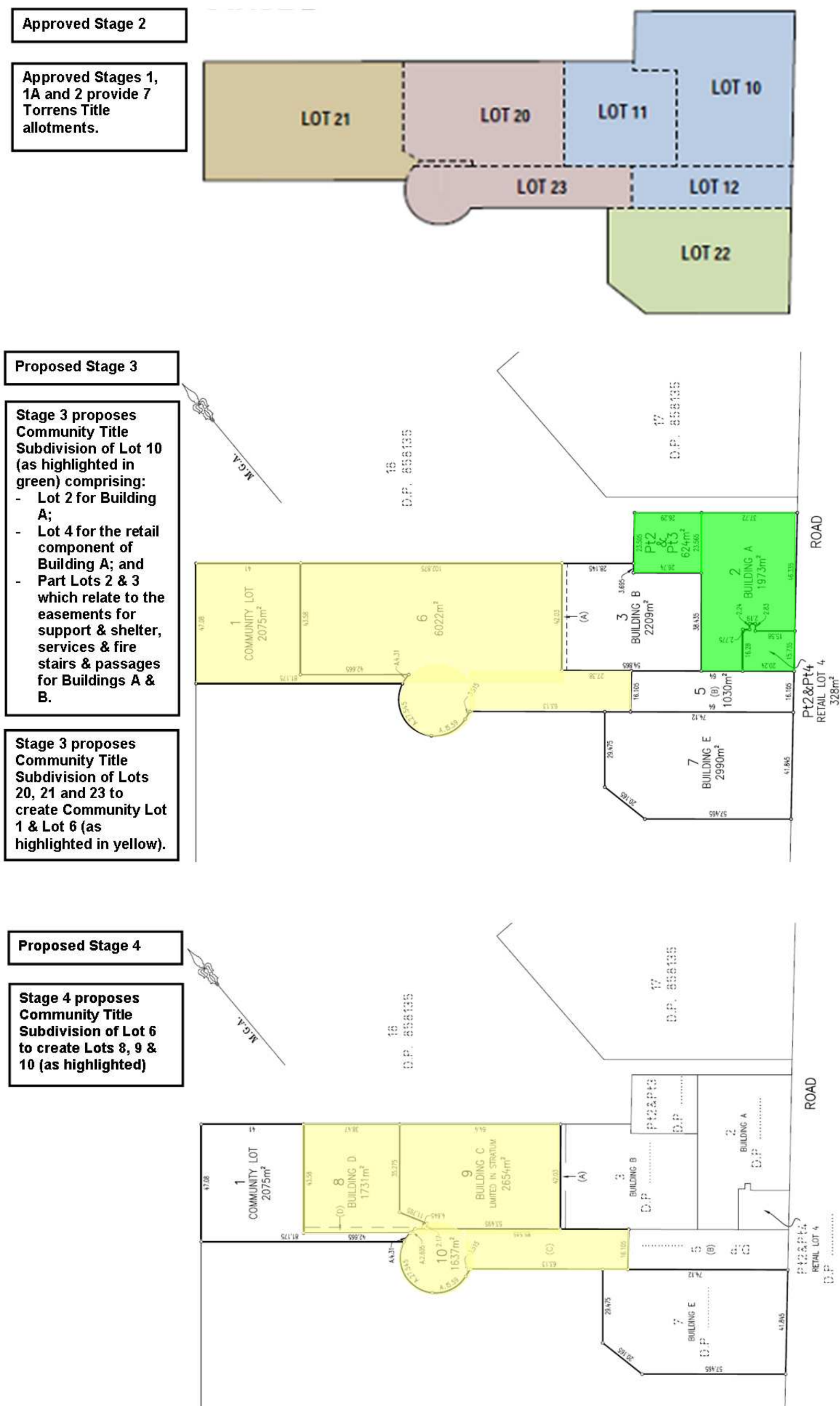
Development Lot 10	<p>Lot 10 comprises the remainder of the proposed future road lot.</p> <p>An easement for access will be maintained over this lot.</p> <p>This lot will be dedicated to the City of Ryde together with Lot 5, as a public road in accordance with MP09_0195.</p> <p>In consultation with Council, the turning circle of the future road has been modified so there is no encroachment of basement parking on land to be dedicated to Council.</p>	1,637 m ²
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Notes:

- Lots 8 and 9 are affected by three Global Easements for support and shelter, services, and fire stair and passages.
- Lots 8 and 9 will be in stratum with Part lots and be subject to a Strata Management Statement.

The Proponent has advised that all of the above lots will be subject to a Community Management Statement. A Community Management Statement provides information regarding the body corporate and community title scheme including by-laws, entitlements and rights of owners and regulation of the use of common property. The Proponent has also advised that small amendments to the boundaries and part lots may be required on the final plans to fit as built structures constructed in accordance with approved plans.

Figure 3: Comparison of approved Stage 2 and proposed Community Title Subdivision of Stages 3 and 4.



3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

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 Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the Act.

3.2 Modification of the Minister's Approval

The modification of the Minister's Approval by way of section 75W of the Act is appropriate because the proposal is consistent with the original Approval.

3.3 Consistency with the Concept Plan Approval

The proposed modification of the Project Approval is generally consistent with the Concept Plan Approval (MP09_0195) and will not result in significant changes to the development including the land use, building envelope and parking provision.

3.3 Environmental Assessment Requirements

Section 75W (3) of the EP&A Act provides that the Director-General may notify the Proponent of environmental assessment requirements (DGRs) 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 environmental assessment requirements pursuant to Section 75W (3) with respect to the proposed modification, as sufficient information was provided to the Department to consider the application.

3.4 Delegated Authority

The Minister has delegated his functions to determine Part 3A applications to the Department where:

- the Council has not made an objection, and
- a political disclosure statement has not been made; and
- there are less than 10 public submissions objecting to the proposal.

No submissions have been received from the public and Council has not made an objection to the proposal. There has also been no political disclosure statement made for this application or for any previous related applications, and no disclosures made by any persons who have lodged an objection to this application.

Accordingly the application is able to be determined by the Acting Director, Metropolitan and Regional Projects South under delegation.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X (2) (f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the Department's website and referred to City of Ryde Council for comment.

No submissions were received from the public.

In response to the originally submitted modification application, City of Ryde Council advised that it does not raise objection to the proposal so long as the following items are satisfied:

- the internal road is to be to Council's standard; and
- a public easement for access (2.5 metres wide along the western boundary of Building B) is provided and is publicly accessible and maintained in perpetuity.

In response to Council's concerns, the Proponent provided the following response:

- the internal road will be designed in accordance with type 3 specification as required; and
- a public easement for access will be put in place as recommended.

The Proponent has further amended the application as described in Section 2. The Department notes that this seeks to revert to the subdivision originally approved with additional community title lots proposed. The Department considers that this will have no effect on the internal road and public easement for access. As such, no further comment has been sought in regard to the revised proposal.

5. ASSESSMENT

The application seeks to modify the type of subdivision from Torrens Title to Community Title with associated modifications to lots, easements and subdivision plans (refer to **Tables 1 and 2** and **Figure 3** above).

The Department considers the proposed amendments for Community Title subdivision of the site to be satisfactory as it provides an appropriate staging process which allows for the sharing of facilities, services and maintenance requirements across all sites for the benefit of the future owners and occupants of the retail / residential site. The Department considers the proposed modifications to be in keeping with the original Project Application approval (MP09_0217), in particular regarding the internal road which is to meet the required construction standards, and the provision of the easement for public access adjoining the western boundary of Building B, which will ensure that the development is satisfactorily accessible to vehicles and pedestrians for the lifetime of the development.

The Department also recommends the addition of a condition requiring a 'Community Management Statement' to be submitted to the certifying authority prior to the registration of the subdivision certificate for Stage 3 to ensure this document is provided in conjunction with the Community Title Subdivision being undertaken (Condition B8).

The Department supports the proposed modifications as they do not result in additional environmental impacts and the development remains substantially the same as previously approved. The proposed modifications do not change the original assessment as to the site's suitability for this development. In light of the above, the Department supports the proposed modifications.

5. CONCLUSION AND RECOMMENDATIONS

The proposal seeks to amend Conditions A1 and A2 to reflect the modification to the type of subdivision, from Torrens Title to Community Title with associated modifications to lots and easement and associated subdivision plans.

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

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

It is recommended that the Acting Director, Metropolitan and Regional Projects South:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modifications under delegated authority, under Section 75W of the Environmental Planning and Assessment Act 1979; and
- (c) **sign** the attached instrument of Modification for MP09_0217 (MOD 2).

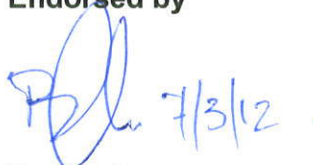
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APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5048

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5048

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
