



**MODIFICATION REQUEST:**  
**120-128 Herring Road, Macquarie Park**  
**Concept Plan (MP09\_0195 MOD 1)**  
**Project Application – Staged Subdivision**  
**(MP09\_0217 MOD 1)**  
**Project Application – Building A**  
**(MP09\_0218 MOD 1)**

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

July 2011

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Published July 2011  
NSW Department of Planning and Infrastructure  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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*NSW Government  
Department of Planning and Infrastructure*

## EXECUTIVE SUMMARY

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This report relates to 3 applications that seek to modify the Department's approval of a Concept Plan and 2 Project Applications for a mixed use residential/retail development and staged subdivision with associated parking and public domain works.

The site is located in the Ryde Council Local Government Area on land which forms part of the existing Morling Baptist Theological College located at 120-128 Herring Road, Macquarie Park.

On 20 January 2011, approvals were granted by the Deputy Director General under delegation for the 3 applications as follows:

- **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 12 storey mixed use residential/retail building (Building A) providing 123 apartments, ground floor retail space, basement car parking for 152 cars and construction of a new local access road.

Copies of the relevant Instruments of Approval are contained in **Appendix A**.

The current modification applications seek approval for the changes which primarily address the modification requirements imposed on the Concept Plan approval, and a number of conditions imposed on the project applications.

Although these modifications and conditions may have been addressed by Council with future Part 4 applications or by the Proponent's Certifying Authority in accordance with the terms of the conditions, the Proponent has chosen to seek Section 75W modifications.

The relevant modifications (refer **Appendices B, C and D**) are summarised as follows;

### **Concept Plan (MP09\_0195) MOD 1:**

Alterations to building envelopes B, C, D and E as required by modification requirements **B1** and **B2** including:

- *Building B*: a reduction in height from 15 to 12 storeys and a 1,013m<sup>2</sup> reduction in GFA, minor amendments to the building façade and floor layout;
- *Building C*: a 389m<sup>2</sup> increase in GFA arising from an extension of the envelope at the north-western corner of the building over the first 4 floors and modification of the fourth floor;
- *Building D*: a 209m<sup>2</sup> increase in GFA within the approved building envelope; and
- *Building E*: a 322m<sup>2</sup> increase in GFA arising from the modification of the first 3 levels of the podium, minor reduction in the western façade building setback.

### **Project Application – Staged Subdivision (MP09\_0217) MOD 1**

The modification proposes the addition of a notation referring to a minimum 2.5m wide easement for pedestrian and cycle access across proposed Lot 11 (as required by Condition **B3** of the Concept approval and Condition **B1** of the Project approval) and rectification of minor drafting errors.

### **Project Application – Building A (MP09\_0218) MOD 1**

The modification proposes the reconfiguration of apartment numbers and mix (including an increase in the number of apartments from 123 to 127) in response to Condition **B1**, a minor 93m<sup>2</sup> increase in GFA, minor changes within the basement car park including removal of double loaded parking spaces, and minor external façade changes.

The modification requirements and conditions of approval that have been satisfied by these modification applications can be deleted from the applicable Instruments of Approval.

The proposed modifications are relatively minor and are considered acceptable. The modified scheme will not detract from the design quality or residential amenity of the development or result in any other adverse impacts.

The modification applications are therefore recommended for approval, as detailed in the 3 Instruments of Modification attached at **Appendices E, F and G**.

Under the delegation made by the Minister for Planning & Infrastructure on 28 May 2011, the modification applications can be determined by the Director General as there have been no public submissions received, the Council has not objected, and there have not been any reportable political donations made.

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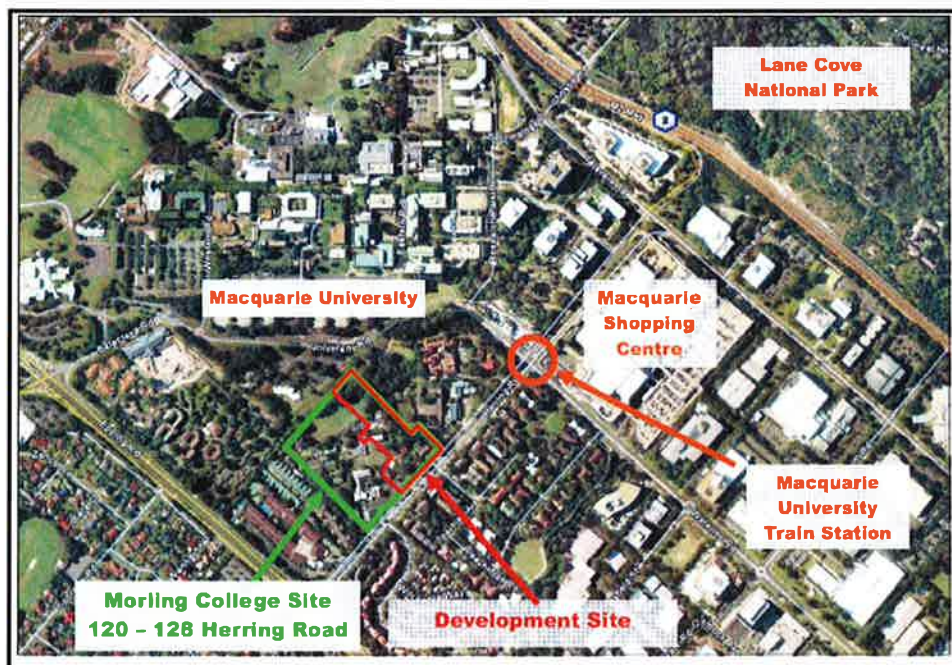
## 1. BACKGROUND

### The Site

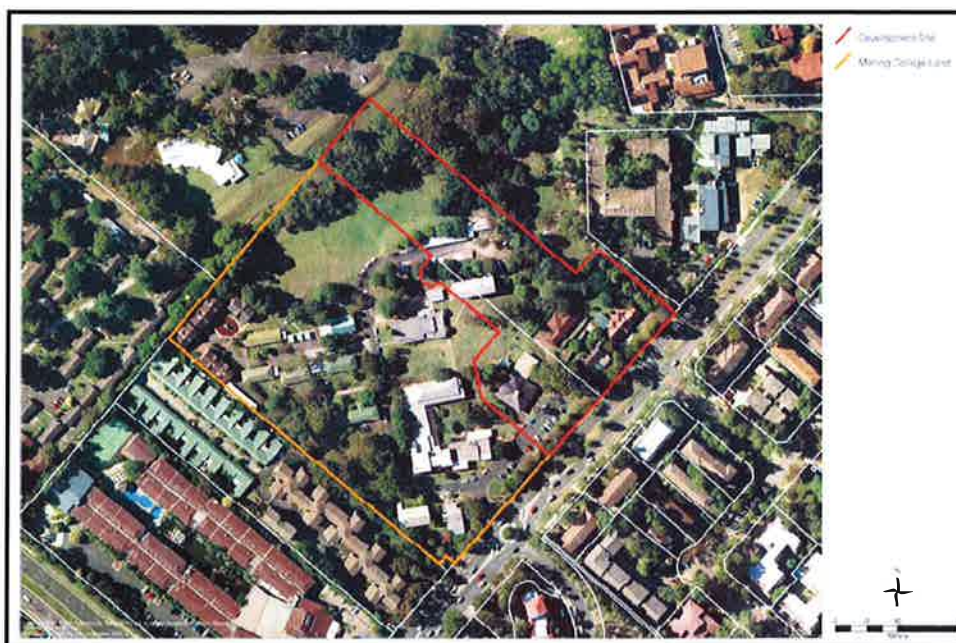
The land the subject of the approvals is located at 120-128 Herring Road, Macquarie Park within the City of Ryde Council LGA and comprises the existing Morling Theological College 17,253m<sup>2</sup> (refer **Figures 1 and 2** below).

The site is 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 development site comprises the northern portion of the College land which is to be subdivided off from the main College site and totals 17,253m<sup>2</sup> in area.



**Figure 1: Site and locality plan**



**Figure 2: Subject site (red) and Morling Theological College (orange) detailing existing features (Source: EA May 2010)**

The site is zoned "Mixed Use (B4)" under the recently gazetted Ryde LEP 2010, and "Multi-Unit development" and "Business Premises" (retail) are permissible with consent.

### **Previous Approvals**

On 20 January 2011, the Deputy Director General, under delegation, granted approval to 3 applications as follows;

#### **Concept Plan (MP09 0195)**

Approval was granted for;

- envelopes for the height, bulk and configuration of 4x12 storey and 1x9 storey residential apartment buildings on separate allotments; and
- associated landscaping, car parking and a new local access road in the form of a cul-de-sac.

The indicative yield comprised 557 apartments and 667 car parking spaces and a total Gross Floor Area (GFA) of 45,718m<sup>2</sup>. Ground floor retail was also proposed in Building A.

**Modification B1** of the Concept Plan approval imposes a reduction in height to Building B from 15 storeys to 12 storeys.

**Modification B2** of the approval requires the building envelope and/or unit layouts and mix for Buildings B, C, D, and E to be amended to ensure compliance with the requirement that 70% of units achieve a minimum of 2 hours solar access in midwinter.

**Modification B3** of the approval requires a pedestrian path/cycleway, a minimum of 2.5m in width, to be provided across the proposed Lot 11 (Building B) to provide a 24 hour/7 day a week connection by right of way easement and be located between the new internal road and the north-eastern side boundary with Macquarie University.

#### **Project Approval (MP09 0217)**

Approval was granted for staged subdivision of the development site in 3 stages resulting in 7 allotments at completion of the Concept Plan development, with each of the 5 residential apartment buildings on 5 separate allotments and the new local access road on 2 allotments (to be dedicated to Council).

**Condition B1** of this approval requires a pedestrian path/cycleway, a minimum of 2.5m in width, to be provided across the proposed Lot 11 (Building B) to provide a 24 hour/7 day a week connection by right of way easement and be located between the new internal road and the north-eastern side boundary with Macquarie University.

#### **Project Approval (MP09 0218)**

Approval was granted for demolition, excavation, and the construction of Building A (residential and ground floor retail), and the construction of the portion of the new local access road, footpath and cycleway off Herring Road. Building A will consist of 10,367m<sup>2</sup> GFA, 123 apartments, 96m<sup>2</sup> of retail space, and 152 parking spaces at basement level. A temporary sales office building and associated carparking is also to be erected at the time of construction of Building A.

**Condition B1** of this approval requires the building envelope and/or unit layouts and mix to be amended to ensure compliance with the requirement that 70% of units achieve a minimum of 2 hours solar access in midwinter.



## 2. PROPOSED MODIFICATIONS

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### 2.1 Modification Description

The current modification applications seek approval for the changes which primarily address the modification requirements imposed on the Concept Plan approval, and a number of conditions imposed on the project applications.

Although these modifications and conditions may have been addressed by Council with future Part 4 applications or by the Proponent's Certifying Authority in accordance with the terms of the conditions, the Proponent has chosen to seek Section 75W modifications.

The 3 modification applications seek to modify the current approvals as follows:

#### Concept Plan (MP09\_0195)

The Proponent seeks to modify **Condition A2 (Approved Plans)** to incorporate amended plans demonstrating compliance with Modification requirements **B1** and **B2** as outlined in the Modification Instrument in **Appendix B**. The application has adequately demonstrated compliance, and accordingly Modification requirements **B1** and **B2** can be deleted.

Modifications B1 and B2 of the original Concept Plan approval state as follows;

##### **"B1. Height**

*The plans described in Part A – Terms of Approval A2 shall be modified as follows;*

*a. The height of Building B shall be reduced from 15 storeys to a maximum of 12 storeys.*

##### **B2. Solar Access**

*The plans described in Part A – Terms of Approval A2 shall be modified as follows;*

*a. The building envelopes and/or unit layouts and mix of each of Buildings B, C, D and E shall be amended to ensure each building separately complies with the requirement that 70% of units achieve 2 hours solar access in mid – winter as prescribed by the provisions of the RFDC."*

Further, with reference to Modification requirement **B3**, the modifications recommended to the Staged Subdivision approval MP09\_0217 (refer below) regarding notations showing the minimum dimension of 2.5m width for the pedestrian/cycleway across proposed Lot 11 (Building B) have been made to the relevant Subdivision approval plans and, accordingly, Modification requirement **B3** of the Concept Plan approval can be deleted.

- **Building B:** a reduction in height from 15 to 12 storeys, a reduced step in the building façade on the northern elevation by 1.3m, a small extension to the fourth floor to become an additional podium level, and a 1,013m<sup>2</sup> reduction in GFA.
- **Building C:** extension of the envelope at the north-western corner of the building over the first four floors; extension to the fourth floor at the southern side of the building to become an additional podium level, and a 389m<sup>2</sup> increase in GFA.
- **Building D:** a 209m<sup>2</sup> increase in GFA within the approved building envelope.
- **Building E:** return the first 3 levels of the street fronting podium around the northern corner of the building along approximately half the façade of the western side, reduce the western façade building setback by 1.4m to 10m for the lower three levels, and a 322m<sup>2</sup> increase in GFA.

The modifications do not result in any change to the overall approved GFA of 47,718 m<sup>2</sup>.

The Proponent has also sought that Concept application Plan No. A170-B submitted with the Preferred Project Report be included in the approved plans identified in Condition **A2** to avoid any future uncertainty.

The plan provides details of the relocation of 13 permanent car parking spaces to replace those existing spaces lost due to the approved development.



The Proponent confirmed by email dated 27 June 2011 that the relocated spaces do not require the removal of any existing buildings or trees, and can be accessed via the existing internal ring road on site.

The Proponent justifies the proposed changes on the following basis:

- In accordance with Modification requirement **B1** of the Concept Plan approval (MP09\_0195), the Concept Plan has been amended to reflect the reduction in height of Building B from 15 storeys to a maximum of 12 storeys.
- In accordance with Modification requirement **B2** of the Concept Plan approval (MP09\_0195), and following a review of amendments made to Building A for MP09\_0218 MOD1, the changes will result in greater levels of solar access for apartments within Buildings B, C, D and E.
- In accordance with Modification requirement **B3** of the Concept Plan approval (MP09\_0195), the Concept Plan has been amended to include a notation showing the minimum dimension of 2.5m width for the pedestrian/cycleway across proposed Lot 11 (Building B).

### **Project Application – Staged Subdivision (MP09\_0217)**

The Proponent seeks to modify this approval as follows;

- Addition of notation referring to a minimum 2.5m wide easement for pedestrian and cycle access across proposed Lot 11 as required by approval Condition **B1 - Modifications**.
- Modify Condition **A2** (Approved Plans) to replace the 7 approved plans with 7 amended subdivision plans (refer **Appendix C**).
- Rectification of minor drafting errors.
- Amendment to Condition **B1** to ensure public easement is maintained on title and that related requirements are completed with the staged subdivision for Building B.

The Proponent justifies the proposed changes on the following basis:

- In accordance with Condition **B1** of the Subdivision Project Approval (MP09\_0217), the proposed easement for access is to be amended to remove the previous reference as a 'Right of Footway Variable Width (x)' to 'Easement for Access (Pedestrian and Cycle) 2.5 wide (x)', and to confirm the location and width; and,
- Amendments to correct some minor errors to the dimensions in Sheet 1 of the Stage 2 Subdivision Plan. This is required as some dimensions were not updated to reflect the minor design change to the size of the cul-de-sac that occurred during the submission of the PPR.

### **Project Application – Building A (MP09\_0218)**

The Proponent seeks to modify Condition **A1** (Development Description) to reflect the revised GFA and apartment numbers.

The Proponent also seeks to modify Condition **A2** (Approved Plans) to incorporate amended plans as outlined in **Appendix D**.

The amended plans have resulted in compliance with Condition **B1** relating to solar access. Condition **B1** states as follows;

#### **"B1 Design Modifications**

*The building envelope and/or unit layouts and mix of Building A shall be amended to ensure the building complies with the requirement that 70% of units achieve 2 hours solar access in mid – winter as prescribed by the provisions of the RFDC."*

The Proponent has also sought that Building A Project application Plan No. A320-A submitted with the Environmental Assessment be included in the approved plans identified in **Condition A2** to avoid any future uncertainty. The plan provides details of the location of the temporary sales office and associated carparking consistent with the approved Plan No. A281-A which details the elevations and design of the temporary sales office.

The Proponent also seeks to modify conditions **B4** (Monetary Contributions) and **B31** (BASIX Certificate requirements). The modified condition **B4** will increase the total S94 contribution payment by \$14,327.40 from \$1,769,534.30 to \$1,783,861.70 (due to revised dwelling numbers and mix and adjustment in accordance with the current CPI).

The amended Condition **B31** will reference the revised BASIX Certificate, which has been provided in accordance with the amended plans.

The amended plans submitted with the modification application detail the following;

- Reconfiguration of apartment type and mix, including the provision of 7 studio apartments. The total number of apartments is proposed to increase by 4 from 123 to 127. The details are shown in **Table 1** below.

**Table 1: Change to Apartment Mix**

| Type         | Approved   | Proposed   | Difference |
|--------------|------------|------------|------------|
| Studio       | 0          | 7          | + 7        |
| 1 Bedroom    | 68         | 67         | - 1        |
| 2 Bedroom    | 47         | 45         | - 2        |
| 3 Bedroom    | 7          | 8          | + 1        |
| 4 Bedroom    | 1          | 0          | - 1        |
| <b>Total</b> | <b>123</b> | <b>127</b> | <b>+ 4</b> |

- Internal building changes to reflect the above changes to apartment mix and numbers.
- A 93m<sup>2</sup> increase in GFA (a 0.9% increase in the overall approved GFA). The total approved GFA of 10,357m<sup>2</sup> is increased to 10,450m<sup>2</sup> but the overall approved GFA for Buildings A – E remains as approved.
- Minor changes within the basement car park including removal of 3 double-loaded parking spaces to ensure all spaces are single-loaded, provision of additional 4 bicycle/storage spaces to service the additional 4 apartments, and re-arrangement of motorcycle parking. There is no change to the number of car parking spaces.
- Minor external façade changes including the re-design of the glazing and balconies within the podium base on the northern, eastern and southern façades, minor reduction to a small area of elevation setback on the southern facade at floors 5-11, redesign of glazing on the eastern façade at floors 9, 10 and 11 as well as southern façade on floors 10 and 11, minor changes to glazing proportions on floors 5 to 11 on the western elevation and a small increase in the projection of balconies (340mm) on south-western corner at floors 1-9.

The modifications will not result in any increase to the maximum approved height, minimum setbacks or approved parking numbers. The only change to the approved envelope is the minor increase in the projection of the balconies on the south-western corner of the building at floors 1-9.

The Proponent justifies the proposed changes on the following basis:

- A review of recent market advice that established that there is a greater demand for smaller apartments on the site; and

- Additional apartments and associated internal and external changes were needed to be incorporated along the northern and north-eastern facades along with a reduction in the number of south facing apartments in order to comply with the solar access requirements of Condition B1.

### 3. STATUTORY CONTEXT

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#### 3.1 Modification of the Minister's Approval

The modification applications have been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W allows modification of an approval including '*revoking or varying a condition of the approval or imposing an additional condition of the approval*' and '*changing the terms of any determination made by the Minister under Division 3 in connection with the approval*'.

The modification applications propose only relatively minor revisions to the approved development and relevant changes to conditions of approval and will not materially alter the proposal as originally approved. The modifications can therefore be approved pursuant to the provisions under Section 75W of the Act.

### 4. CONSULTATION AND SUBMISSIONS

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In accordance with Section 75J of the EP&A Act and Clause 8G of the EP&A Regulation, the modification requests were made available on the Department's website and referred to Ryde Council for comment. No public submissions were received in relation to the modification requests.

The following comments were received from Ryde Council on 10 May 2011:

- Council reiterated its original opposition to the proposal regarding concerns relating to significant non-compliances with Council planning controls for the site, implementation of design that did not comply with Council's proposed fine-grained suburban network for the locality and lack of a social impact assessment.

Council has also stated that "*None of these matters appear to be more effectively addressed by the proposed modifications nor affected to the extent that would warrant a further submission on them.*"

- Council states that if a social impact assessment had been undertaken, it would have needed to be updated to consider the impact of the proposed increase in smaller units. Further, given the changes proposed to Building A, it is Council's expectation that other buildings within the Concept Plan may ultimately yield a greater number of smaller units as well, thereby increasing the overall unit density of the site, and emphasising the need for a social impact assessment.
- It is Council's policy to include any room capable of being used as a bedroom for the purposes of calculating Section 94 contributions, and this matter should be addressed with any re-calculation of S94 Contributions.

The Department gave detailed consideration to Council's submission in the assessment of the original Concept Plan and Project applications.

The Department considered that the overall proposal provided a high quality design, appropriate land uses and was compatible with the local context, especially considering the proximity of the site to public transport infrastructure, employment opportunities and other services and facilities such as the Macquarie Shopping Centre.

The issue of updated Section 94 contributions has been considered in **Section 5.4** of this report.

## 5. ASSESSMENT

The Department considers the key issues to be;

- built form/setbacks/external appearance/GFA;
- SEPP 65 and solar access;
- apartment layout; and,
- Section 94 contributions.

These issues are assessed below.

### 5.1 Built Form/Setbacks/External Appearance/GFA

In terms of built form, setbacks and external appearance, the proposed changes to the Concept Plan (MP09\_0195) and Building A (MP09\_0218) result in no material differences to the approved development.

The modifications will result in minor reductions to setbacks of Buildings B and C due to reduced steps in the building façades. However, this will not result in any reduction in minimum approved building setbacks to Herring Road, the new local road, adjoining property boundaries or side setbacks between buildings.

Changes to setbacks are minor and, except for Building E, generally occur at the lower levels of proposed envelopes and occur within existing recessed parts of the respective building envelopes and thus do not reduce the minimum building setback to boundaries or neighbouring buildings. It is considered that the minor reduction in the western (rear) boundary setback of Building E from 11.4 metres to 10.0 metres results in no material difference to the approved development. The subject boundary adjoins Morling College.

The visual impact of the proposed changes is considered minor and will not result in any deleterious visual or amenity impact. Many of the changes will be largely indistinguishable from the approved form of development.

In terms of overall GFA for the development, the total remains the same as approved (45,718m<sup>2</sup>) but with the allocations between buildings slightly varied. The details are shown in **Table 2** below.

**Table 2: GFA**

| Building                          | Approved GFA<br>(m <sup>2</sup> ) | Proposed GFA<br>(m <sup>2</sup> ) | Difference<br>(m <sup>2</sup> ) |
|-----------------------------------|-----------------------------------|-----------------------------------|---------------------------------|
| <b>Building A<br/>(MP09_0218)</b> | 10,357                            | 10,450                            | + 93                            |
| <b>Building B</b>                 | 9,133                             | 8,120                             | - 1,013                         |
| <b>Building C</b>                 | 10,241                            | 10,630                            | + 389                           |
| <b>Building D</b>                 | 5,511                             | 5,720                             | + 209                           |
| <b>Building E</b>                 | 10,476                            | 10,798                            | + 322                           |
| <b>Total</b>                      | <b>45,718</b>                     | <b>45,718</b>                     | <b>0</b>                        |

The Department considers that the redistribution of GFA within the development will not result in any adverse environmental impacts. On this basis the proposed GFA modifications to the approvals of MP09\_0195 and MP09\_0218 are considered acceptable.

Condition **A2** of both approvals will be required to be modified to reflect the new plans as detailed in the relevant modification instruments at **Appendix E and G**.

There is a minor variation to the GFA for Buildings A and E referred to in the above table and the Proponent has advised that the GFA for Buildings A and E quoted in the Preferred Project Report differed from the details shown on Plan No. A161 - E included in Condition **A2**.

The Preferred Project Report stated a GFA for Building A of **10m<sup>2</sup>** more than the approved plans and a GFA for Building E of **9m<sup>2</sup>** less than the approved plans. However, the total GFA referred to in the Preferred Project Report was correct at 45,718m<sup>2</sup>. The revised GFA for Buildings A and E is shown in the **Table 2** above.

## 5.2 SEPP 65 and Solar Access

### Concept Plan (MP09\_0195)

The Proponent has indicated that the range of envelope changes and the outcomes evident in terms of improved solar access from the dwelling mix and unit layout made to Building A demonstrates that the Concept Plan approval **Modification B2** requiring that the RFDC requirement for 70% of apartments to achieve 2 hours solar access in mid-winter can be met. **Modification B2** - Solar Access in the Terms of Approval stated as follows;

*"The building envelopes and/or unit layouts and mix of each of Buildings B, C, D and E shall be amended to ensure each building separately complies with the requirement that 70% of units achieve 2 hours solar access in mid – winter as prescribed by the provisions of the RFDC".*

However, it is noted that the Proponent has not provided any details or schedules of changed unit mix or final unit numbers for Buildings B, C, D and E as required by B2 and it is recommended that a further Future Assessment Requirement, "**4A**" be added to the Concept Approval as follows;

#### *"4A. Solar Access*

*Future Development Applications shall demonstrate that the building envelopes and/or unit layouts and mix of each of Buildings B, C, D and E has been amended to ensure each building separately complies with the requirement that 70% of units achieve 2 hours solar access in mid – winter as prescribed by the provisions of the RFDC."*

### Building A Project Application (MP09\_0218)

On 10 June 2011, the Proponent submitted a schedule from Turner & Associates Architects indicating that the proposed changes result in compliance with the RFDC requirement that a minimum of 70% of apartments achieve 2 hours solar access mid - winter as required by Condition **B1** of the Project approval.

A total of 89 of the 127 apartments in the amended Building A achieve 2 hours solar access in mid-winter which complies with the RFDC requirement of 70%.

Accordingly, Condition **B1** – Design Modifications can be deleted from the Project approval.

The change to the mix of units in Building A is addressed below in **Section 5.3**.

## 5.3 Apartment Layouts/Mix

**Building A (MP09\_0218)** has been modified to include the addition of 7 studio apartments. All of the studios are located on the north-western elevation with 2 studios located on each of levels 1 to 3 and a single studio located on level 4. The introduction of 7 studios apartments and the reduction in the number of 1 bedroom, 2 bedroom and 4 bedroom units by 1, 2 and 1 respectively, and increase in the number of 3 bedroom units by 1, results in an increase in the total number of units in Building A from 123 to 127.

The details are shown in **Table 3** below.

**Table 3: Apartment Mix**

| Type         | Approved   | Percentage  | Proposed   | Percentage  | Change |
|--------------|------------|-------------|------------|-------------|--------|
| Studio       | 0          | 0           | 7          | 6           | + 6%   |
| 1 Bedroom    | 68         | 55          | 67         | 53          | - 2%   |
| 2 Bedroom    | 47         | 38          | 45         | 35          | - 3%   |
| 3 Bedroom    | 7          | 6           | 8          | 6           | 0%     |
| 4 Bedroom    | 1          | 1           | 0          | 0           | - 1%   |
| <b>Total</b> | <b>123</b> | <b>100%</b> | <b>127</b> | <b>100%</b> |        |

The changes to the mix of different unit types is relatively minor and will not change the character of the proposal, with the predominant dwelling types remaining as 1 and 2 bedroom units as originally approved.

The 7 studios are not provided with a balcony, which does not comply with the requirements of the RFDC which recommend that studio apartments should be provided with a minimum external area of 6m<sup>2</sup>.

In order to provide an acceptable level of amenity to the studio apartments the Proponent has stated that operable bi-fold windows above sill height could be provided. This is supported and an appropriate condition has been recommended to address this matter. The studios are located on the north-western elevation with good access to sunlight and daylight.

The site is located close to the University and the proposed studio apartments will provide for a range of affordable/student accommodation. Consequently, the departure from the requirements of the RFDC is supported in this case, subject to the addition of the following approval condition to ensure adequate levels of amenity are provided for future occupants:

**“ B41 Studio apartments**

*The windows to the studio apartments shall be fully openable incorporating bi-folds, or similar, above sill height. The proportions and materials of the solid walling below sill height shall be consistent with treatment provided elsewhere in the building elevations. The external walls and openable window treatment shall be designed to meet BCA requirements.”*

## 5.4 Section 94 Contributions

**Condition B4** (Monetary Contributions) of Project Application – Building A (MP09\_0218) is required to be modified due to the revised number of units and unit mix (refer Table 3).

The revised calculations provided by the Proponent have been amended by the Department to reflect updated Section 94 Contributions rates (March 2011 quarter). The overall Section 94 contribution for the development will increase by \$14,327.40 from \$1,769,534.30 to **\$1,783,861.70**. This does not accord with Council's policy to include any room capable of being a bedroom.

The Department's calculation is consistent with the methodology applied with the determination of the original project. It is considered appropriate to base the calculation on the submitted floorplan as the nature of any possible future changes to the configuration and occupation of the apartments is speculative.

The condition has been modified accordingly as detailed in the relevant modification instrument at **Appendix F**.

## 5.5 Other Matters

### Staged Subdivision (Project Application MP09\_0217)

No issues arise with regard to the proposed modifications to this application. Condition **A2** of the consent has been modified as detailed in the relevant modification instrument at **Appendix E**.

### Car Parking

With regard to Building A (MP09\_0218), the proposed changes to apartment mix and numbers results in 4 additional parking spaces required under the provisions of Section 9.3 of Ryde DCP 2010. No additional parking spaces are proposed.

The requirement for additional parking spaces arises from the provision of 7 studio apartments within the development. Section 9.3 of Ryde DCP 2010 provides a parking rate of 1 space per 1 bedroom unit and in the absence of a specific rate for studio apartments, this rate is also applied to the proposed studios.

Given the proximity of the site to Macquarie University Railway Station, Macquarie Shopping Centre and extensive bus services available in the immediate vicinity of the site, the provision of a parking space for each of the additional studio apartments is considered unnecessary.

In addition, given the Department's policy to discourage reliance on car parking within major developments, the proposed shortfall of 4 spaces arising from the modification is considered acceptable.

## 6. CONCLUSION

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The proposed modification does not alter the overall nature, need or justification of the approved project. The main issues relating to built form, SEPP 65 and solar access, apartment layout, and, Section 94 contributions have been addressed in the report. It is considered that the proposal, as modified, is generally consistent with the approved development

The proposed modification does not result in a "radical transformation" of the approved Concept Plan and Project Applications as originally approved. The proposed modifications do not result in any increase in overall GFA to that originally approved.

It is concluded that the proposed modifications are considered minor and predominantly incorporate changes required by the relevant conditions of approval.

Overall, the approved scheme will remain consistent with that approved under the 3 applicable approvals and no adverse environmental impacts will occur from the changes.

## 7. DELEGATION

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On 28 May 2011, the Minister for Planning and Infrastructure delegated his powers and functions under Section 75W of the Act to the Director General in cases where;

- there are less than 25 public submissions (not including submissions from public authorities) in the nature of objections;
- the Council has not objected to the application; or,
- where there has not been a reportable political donation made.

There have not been any public submissions received in respect to the modification applications.



While the Ryde Council made a submission, they have not objected to the proposed modifications. The Council's submission primarily reiterated there opposition to the original application.

The Proponent has not disclosed a reportable political donation in association with the current modification applications or any previous applications


Accordingly, the Director General may determine the modification request under delegated authority.

## 8. RECOMMENDATION

It is recommended that the Director General, as delegate of the Minister for Planning and Infrastructure:

- (A) **consider** the recommendations of this report;
- (B) **approve** the modifications to MP09\_0195, MP09\_0217 and MP09\_0218 subject to conditions, under Section 75W of the *Environmental Planning and Assessment Act. 1979*; and,
- (C) **sign** the attached Instruments of Modification (**Appendix D, E and F**)


Endorsed By:

  
Michael Woodland  
**Director**  
**Metropolitan and Regional Projects South** 8/7/2011

Endorsed By:

  
Daniel Keary  
**A/Executive Director**  
**Major Projects Assessment** 8/7/11

Approved By:

  
Richard Pearson  
**Deputy Director General**  
**Development Assessment & Systems**  
**Performance** 10/7/11