



**Planning &
Infrastructure**

MODIFICATION REQUEST:

120-128 Herring Road, Macquarie Park

***MP09_0218 MOD 4 - Modifications to Tree
Management***



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979
December 2012

Cover Photograph: Perspective of the development (Source: Proponent's PPR)

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Published December 2012
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

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1. BACKGROUND

1.1 The Site

The site lies within the Ryde Local Government Area, approximately 14 km north-west of the Sydney CBD and 6 km north-west of the Chatswood CBD. The site is in close proximity to Macquarie University, the Macquarie Shopping Centre, the Macquarie University Railway Station, Epping Road and the Lane Cove National Park (see **Figures 1 and 2** below). The site comprises part of the existing Morling Theological College, and has a total area of 17,253 sqm.

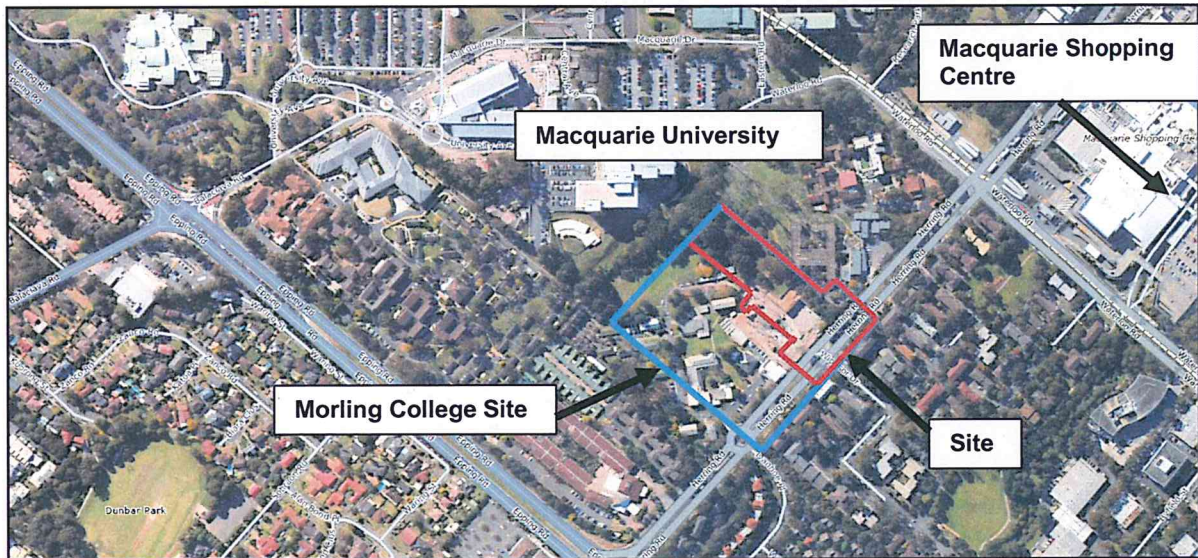


Figure 1: Site Location

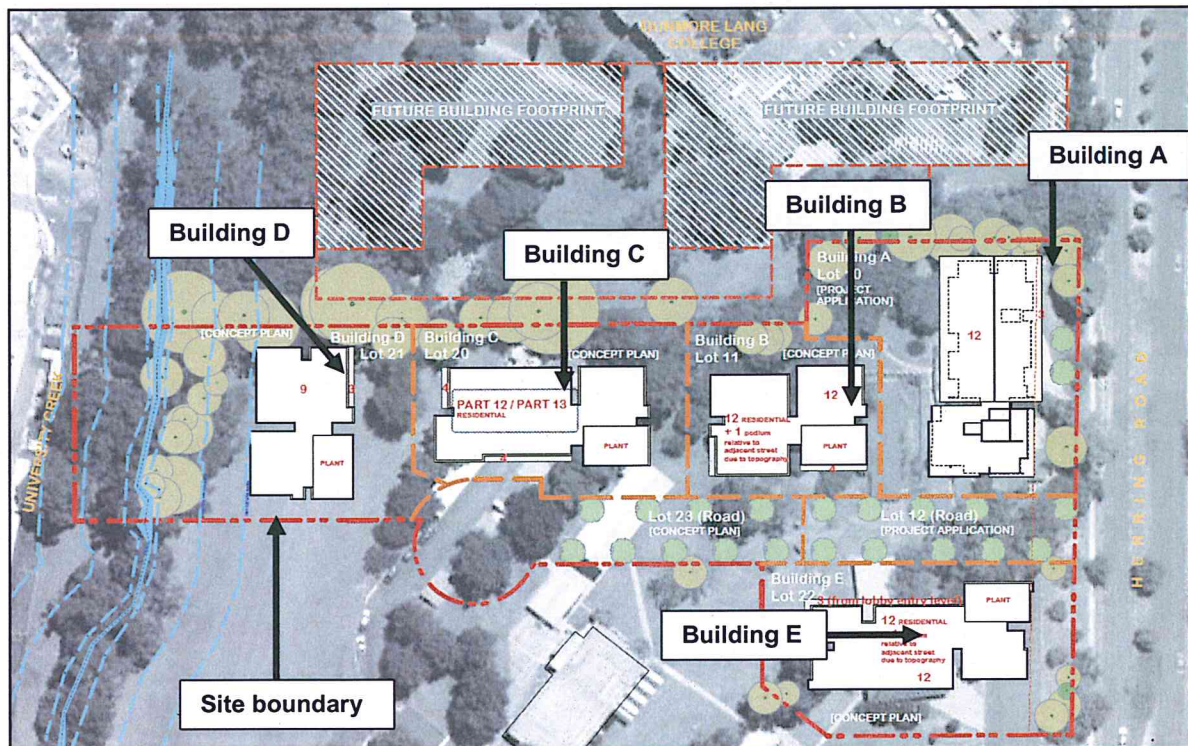


Figure 2: Site Context Plan Demonstrating the Layout of the 5 Buildings and Internal Road

1.2 Previous Approvals

On 20 January 2011, the Deputy Director-General of 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.

On 13 March 2012, the Acting Director, Metropolitan and Regional Projects South approved the following modification applications:

- **Project Application (MP09_0217 MOD 2)** for modifications to the Project Approval to change the subdivision type from Torrens Title to Community Title Subdivision; and
- **Project Application (MP09_0218 MOD 2)** for modifications to the configuration of the basement levels of Building A.

On 23 March 2012, the Acting Director, Metropolitan and Regional Projects South approved the following modification application:

- **Concept Plan (MP09_0195 MOD 2)** for 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.

On 10 April 2012, the Acting Director, Metropolitan and Regional Projects South approved the following modification application:

- **Project Application (MP09_0218 MOD 3)** for modifications the approved dwelling mix, basement parking and storage and energy efficiency of clothes dryers of Building A.

- **Concept Plan (MP09_0195 MOD 3)** for modifications to the Concept Plan approval to adjust ground floor levels, heights and extent of basements for buildings C and D, remove an additional eight trees across the site, and revise the Tree Management Plan.

2. PROPOSED MODIFICATION

The modification seeks to remove tree number 24 (Common Coral Tree) and tree number 27 (Monterey Cypress). Additional trees are proposed to be planted to offset the loss of these trees.

Tree Details Table:

Tree Number	Species	Diameter	Height	Location
1	Acacia	100	15	North
2	Acacia	100	15	North
3	Acacia	100	15	North
4	Acacia	100	15	North
5	Acacia	100	15	North
6	Acacia	100	15	North
7	Acacia	100	15	North
8	Acacia	100	15	North
9	Acacia	100	15	North
10	Acacia	100	15	North
11	Acacia	100	15	North
12	Acacia	100	15	North
13	Acacia	100	15	North
14	Acacia	100	15	North
15	Acacia	100	15	North
16	Acacia	100	15	North
17	Acacia	100	15	North
18	Acacia	100	15	North
19	Acacia	100	15	North
20	Acacia	100	15	North
21	Acacia	100	15	North
22	Acacia	100	15	North
23	Acacia	100	15	North
24	Acacia	100	15	North
25	Acacia	100	15	North
26	Acacia	100	15	North
27	Acacia	100	15	North
28	Acacia	100	15	North
29	Acacia	100	15	North
30	Acacia	100	15	North
31	Acacia	100	15	North
32	Acacia	100	15	North
33	Acacia	100	15	North
34	Acacia	100	15	North
35	Acacia	100	15	North
36	Acacia	100	15	North
37	Acacia	100	15	North
38	Acacia	100	15	North
39	Acacia	100	15	North
40	Acacia	100	15	North
41	Acacia	100	15	North
42	Acacia	100	15	North
43	Acacia	100	15	North
44	Acacia	100	15	North
45	Acacia	100	15	North
46	Acacia	100	15	North
47	Acacia	100	15	North
48	Acacia	100	15	North
49	Acacia	100	15	North
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90	Acacia	100	15	North
91	Acacia	100	15	North
92	Acacia	100	15	North
93	Acacia	100	15	North
94	Acacia	100	15	North
95	Acacia	100	15	North
96	Acacia	100	15	North
97	Acacia	100	15	North
98	Acacia	100	15	

Note the eight trees approved to be removed (yellow highlighted text) including the two trees the subject of this modification (circled in red) and the eight additional trees approved to be planted to offset tree removals (coloured yellow).

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 the associated regulations, and the Minister (or his delegate) may approve or disapprove the proposed modifications to the Concept Plan under section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

Section 75W(2) of the EP&A 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. As the proposed modification seeks to amend condition A2 to update the schedule of approved drawings, the modification will require the Minister's approval.

3.3 Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Director-General scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. DGRs were not issued for this modification as the proponent has addressed the key issues related to the modification requests.

3.4 Delegated Authority

The Minister has delegated to the Director-General his functions to determine a modification request under section 75W of the EP&A Act where the relevant local council has not made an objection, a political disclosure statement has not been made and there are less than 10 public submissions in the nature of objections. A new political disclosure statement has been made for this application. Accordingly the application is not able to be determined by the Director-General under delegation.

In the instrument of Delegation dated 14 September 2011 the Minister has delegated to the Planning Assessment Commission (PAC) his functions under the Act related to the determination of applications including section 75W modification in respect of projects to which Part 3A of the Act applies for applications made before or after 1 October 2011 (including reportable political donation applications) other than applications made by or on behalf of a public authority. The application is not made by a public authority and accordingly is able to be determined by the PAC under delegation.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act and clause 8G of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), the modification request was made publically available on the Department's website. The Department also notified Ryde Council.

Given the minor nature of the modifications, and that the modification application did not raise any issues beyond those already raised by MP09_0195 Modification 3 - Concept Plan - Mixed Use Residential/Retail Development (Part3A Mod), the Department did not undertake any further notifications.

4.2 Submissions by public agencies

At the time of writing this report no public agency submissions had been received. None were received in relation to MP09_0195 Modification 3 - Concept Plan - Mixed Use Residential/Retail Development (Part3A Mod). Ryde Council made a submission to MP_0195 Mod 3 and raised some concern with the removal of additional trees on site.

4.3 Public Submissions

At the time of writing this report no public submissions had been received.

5. ASSESSMENT

The modification seeks approval to remove two trees located near Building A. This modification would make the Project Approval consistent with the approved Concept Plan.

An Arboricultural Assessment was prepared by Urban Forestry Australia dated 10 August 2012, to support the removal of the additional trees. It concluded that the subject trees should be removed for either safety reasons, or as a result of health decline that is likely to occur due to development impacts.

The Department has already reviewed the proponent's Arboricultural Assessment in its assessment of Modification 3 to MP09_0195. In its assessment the Department agreed that it is appropriate to remove eight additional trees including trees 24 and 27 on the basis that they are either in poor health or are likely to decline in health as a result of the location of the approved building envelopes. The Department noted in its assessment that Ryde Council raised concern with the removal of additional trees on site, particularly the three local native species identified within the *NSW Scientific Committee Final Determination for the Sydney Turpentine-Ironbark Forest Endangered Ecological Community*. The Department reviewed Council's comments and concluded that a revised seven part test was not necessary for reasons stated in the assessment report.

In order to offset the removal of the trees, the Tree Management Plan provides the addition of four (4) *Eucalyptus punctata* and four (4) *Syncarpha glomullifera* on-site. This will compensate for the loss of the trees that will be removed.

Modification 3 to MP09_0195 was approved and a revised Tree Management Plan Drawing LP-3 Rev E dated 08/10/12 was approved. Accordingly, it is proposed that the currently approved Tree Management Plan for the Project Application be replaced with the approved Tree Management Plan for the Concept Plan. The proponent has issued a new issue F of the Tree Management Plan dated 8/11/12. The only difference between the approved issue E and the proposed issue F is that issue F corrects a note in the left column of text to indicate the total trees being planted at 58 (including the eight trees offsetting those approved for removal). Accordingly it is proposed that the Tree Management Plan LP-3 Issue F be approved by amending Condition A2 of the Project Approval.

6. CONCLUSION


The Department has considered the proposed modifications to the Concept Plan and the key issues associated with these modifications. In this regard, the Department is satisfied that the proposed modifications are consistent with the Concept Plan approval and the Project Approval, and will not create any adverse environmental or amenity impacts.

It is therefore recommended that the modification application be approved, subject to conditions, as outlined in the recommended Instrument of Modification.


7. RECOMMENDATIONS

It is recommended that the Planning Assessment Commission:

- (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.
- (c) **Sign** the attached instrument of Modification for MP09_0218 (MOD 4).


19/12/12
Director
Metropolitan and Regional Projects South


19.12.12
Executive Director
Major Projects Assessment


21/12/12
Deputy Director-General
Development Assessment
and Systems Performance

APPENDIX A MODIFICATION REQUEST

See the Department 's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

The Department did not receive any submissions.

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
