



Planning &
Environment

***MODIFICATION REQUEST:
Stage 1 – Project Approval at
110 – 114 Herring Road, Macquarie Park
(MP 10_0113 MOD 2)***

Amendments to conditions of Approval



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

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1. INTRODUCTION

The purpose of this report is to assess an application to modify the conditions of Project Approval MP 10_0113 for a mixed use development at 110-114 Herring Road, Macquarie Park under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The application seeks approval to modify conditions relating to hours of construction work, staging, Sydney Water requirements and water efficiency. The conditions sought to be modified are outlined in **Section 2** of this report.

1.1 Site and Locality

The site is 110-114 Herring Road, Macquarie Park and legally described as Lot 1 DP 780314. The site is located on the southern edge of Macquarie Park within the Ryde Local Government Area. The site is approximately 13 km north-west of the Sydney CBD and 6 km north-west of Chatswood.

The site has an area of 22,433m² and is generally rectangular in shape, with a splayed southern corner, at the intersection of Epping and Herring Roads. The north eastern and south western boundaries are 230.8 metres and 100.5 metres in length, respectively. The site falls approximately 8 metres from its southern to its western corner and 2 metres from its southern to its eastern corner (**Figure 1**).



Figure 1: Project Location

1.2 Previous Approvals

On 26 September 2012, the Planning Assessment Commission (PAC) approved a Concept Plan (MP 10_0112) for:

- use of the site for residential, retail, commercial and public open space purposes;
- indicative building envelopes for seven buildings with a maximum height of RL 138.45;
- a maximum gross floor area of 47,650 m²;
- a minimum of 1,210 m² of non-residential gross floor area;
- residential apartments;
- basement level and at grade car parking;
- open space and landscaped areas; and
- internal and public roads.

The PAC also issued Stage 1 Project Approval (MP10_0113) for a mixed use development comprising:

- demolition and excavation;
- four residential buildings, retail and commercial floor space;
- basement car parking;
- landscaping and public works around the buildings, including lift and stairs to Epping Road;
- publicly accessible open space and through site links; and
- road works.

The Stage 1 Project Approval is proposed to be modified. Refer to **Figure 2** for the approved modified project layout.

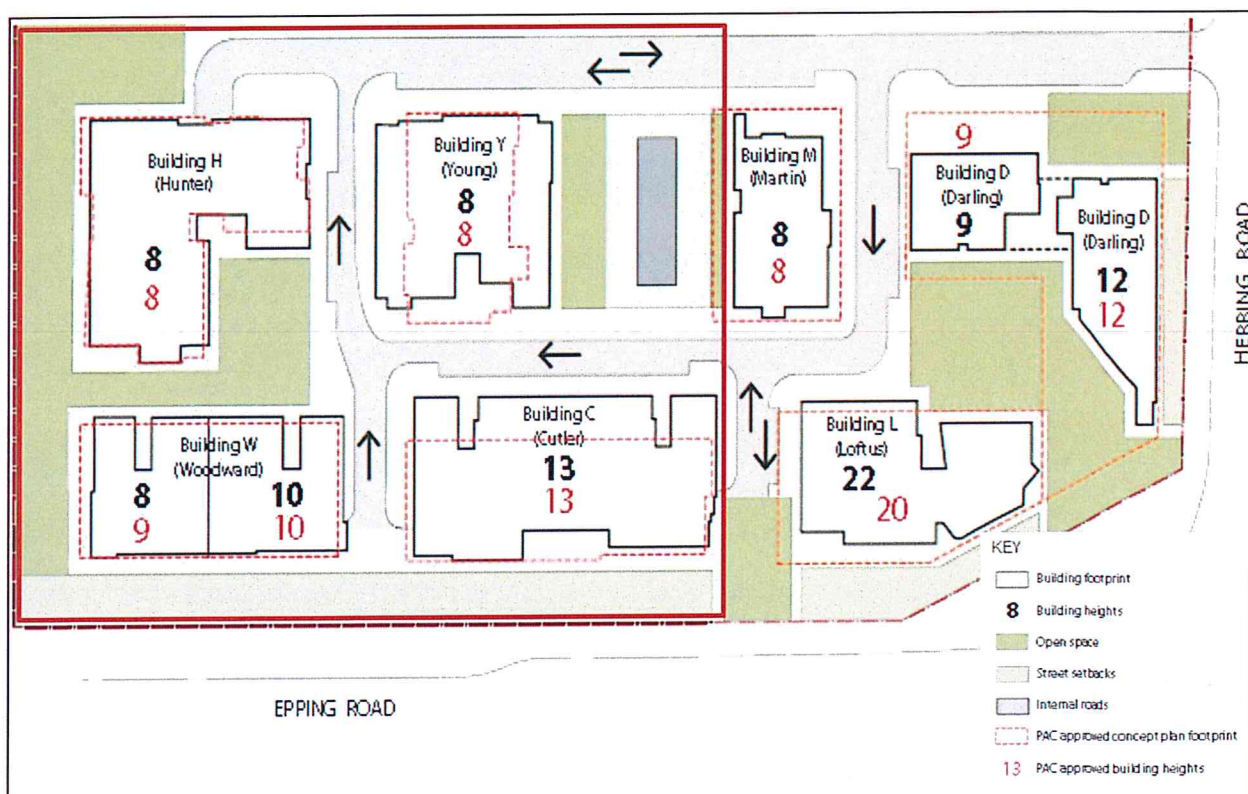


Figure 2: Approved modified layout (Stage 1 Project Approval shown in red outline)

On 3 June 2013, the PAC approved a modification (MOD 1) to the Concept Plan for height, density, layout, access and car parking changes.

On 27 May 2014, the PAC approved a modification to both the Concept Plan (MOD 2) and the Stage 1 Project Approval (MOD 1), which included various internal and external amendments.

The Department is currently assessing further modifications to both the Concept Plan and Stage 1 Project Approval:

- MOD 3 to amend car parking arrangements; and
- MOD 4 includes internal and external amendments including revised dwelling mix, minor amendments to building envelopes, façades and retail floor space, relocation of community facilities and changes to the landscape design.

Construction has not commenced.

2. PROPOSED MODIFICATION

The proposal seeks to modify the approval as follows:

- **Hours of Construction Work**

Modify Condition D1 to extend the construction hours as per **Table 1** below:

Table 1: Approved and Proposed construction hours

	Approved	Proposed
Monday - Friday	7:00 am – 5:00pm	7:00 am – 7:00 pm
Saturdays	8:00 am – 12:00pm	8:00 am – 4:00pm

- **Staged Construction of development**

Amend conditions B1 to B32 to allow for the issue of staged Construction Certificates (CC).

- **Upgrade of Drinking water and waste water mains**

Modify Condition B30 (1) and (2) to defer the requirement for the upgrade of drinking water and waste water mains prior to the issue of an Occupation Certificate (OC).

- **Appliance Water Ratings**

Amend Condition B29 to reflect NSW's current water rating system. This will allow a 3 star Water Efficiency Labelling Scheme (WELS) appliance rating to replace the existing voluntary AAA water rating scheme.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A of the EP&A Act, continues to apply to Section 75W modification applications for Part 3A projects.

The application has been lodged pursuant to Section 75W of the EP&A Act. Consequently, this report has been prepared in accordance with the requirements of Part 3A and the associated Regulation, and the Minister (or delegate) may approve or disapprove of the carrying out of the project under Section 75W of the EP&A Act.

3.2 Environmental Assessment Requirements

In this instance, it was not considered necessary to notify the proponent of environmental assessment requirements pursuant to Section 75W (3) of the EP&A Act as sufficient information was provided to assess the modification application.

3.3 Delegated Authority

In accordance with the delegation of 14 September 2011, the PAC may determine applications in cases where:

- the local Council has not made an objection to the modification;
- a reportable political donation has been made; or
- there are more than 25 submissions by way of objection by members of the public.

Council has not made an objection to the modification and less than 25 public submissions have been received. However as a reportable political donation has been made, the application is referred to the PAC for determination.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with Section 75X (2) (f) of the EP&A Act, the Department is required to make the modification publicly available. The modification request was made available on the Department's website and was referred to City of Ryde Council. Adjoining residents and landowners were also notified of the application by mail.

4.2 City of Ryde Council Submission

Council initially objected to an aspect of the application relating to delaying payment of the security bond and enforcement levy until a CC is issued for the buildings. However in response the proponent has clarified that Council has misinterpreted the proposed amendments to the conditions. The proponent clarified that these conditions will be satisfied prior to demolition, as requested by Council. On this basis Council does not raise any objection to the proposed modifications to the conditions and its comments in relation to specific issues are set out and considered in **Section 5** and **Appendix A** of this report.

4.3 Public Submissions

The Department notified surrounding landowners of the modification request and received three public submissions raising objection to the extension to the construction hours. The Department has considered the issues in each submission in its assessment of the application in **Section 5.1** below.

5. ASSESSMENT

The Department's consideration of the proposed modifications to the Project Approval is provided below:

5.1 Hours of Construction Work

The proposal seeks approval to amend the approved construction hours in line with Council's standard construction hours, as outlined in its Offensive Noise Management Policy 2008-2011. Condition D1 – Hours of Construction Work is provided below with the proposed modifications shown in **bold underlined** and deletion of ~~struck-out~~ words:

D1 Hours of Work

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- 1) *between 7:00am and 7:00pm ~~5:00pm~~, Mondays to Fridays inclusive;*
- 2) *between 8:00am and 4:00pm ~~12:00 midday~~, Saturdays;*
- 3) *no work on Sundays and public holidays.*

The proponent considers that the approved hours of construction work, which are more restrictive than Council's standard construction hours, would unnecessarily delay the timely completion of the project.

Council does not object to the proposed extended construction hours.

Three public submissions objected to the proposed construction hours raising concern with:

- traffic impacts; and
- amenity impacts including noise disturbance.

The Department notes the public's concerns and acknowledges that there will be some additional construction related disturbance to the locality however these impacts are considered to be acceptable noting that:

- the proposed construction hours are consistent with Council's standard construction hours;
- the site is located at the intersection of two major roads, which generate substantial background traffic and noise;
- Condition B13 requires the submission of a noise and vibration management plan which ensure noise and vibration impacts are appropriately managed during construction;
- Condition B12 requires the submission of a traffic and pedestrian management plan which ensures that construction traffic is appropriately managed; and
- the extended construction hours will allow for a shorter overall construction period which will lessen the overall duration of any construction related disturbance to nearby properties.

Noting the above, the Department considers the proposed modification to Condition D1 is acceptable and recommends that it be approved.

5.2 Staged construction of development

The proposal seeks to amend all conditions in Part B of the approval (conditions B1 to B32) to reflect the proponent's construction program. The proposed modifications permit the release of relevant CCs at different stages of the development. The stages of the CCs include:

- demolition;
- excavation and site retention works;
- detailed architectural design of the below ground car park; and
- detailed architectural design of the relevant building.

Council is generally supportive of the proposed CC staging, however raised concern about conditions B5 and B9 (in relation to staging) and B4, B11, B12, B13, B14, B15, B22, and B31 (in relation to other matters).

The Department's consideration of the staging is provided in **Appendix A**. The Department generally supports the proposed amendments to conditions B1 to B32. The staged construction of the development will not impact on the overall outcome of the approved development and the amendments seek to clarify which conditions are applicable to the

different stages of the development. The proposed amendments to conditions in Part B of the approval are considered acceptable.

Other comments provided by Council regarding the conditions in Part B of the approval are addressed in **Appendix A**.

5.3 Upgrade of drinking water and waste water mains

Part (1) and (2) of Condition B30 requires the upgrading of drinking water mains and waste water mains prior to the issue of a CC. The proposal seeks to amend these requirements to prior to the issue of an OC, noting these upgrades are required to service the demand generated by future occupants of the development.

The Department considers the proposed modifications are acceptable given the additional demand for drinking water and waste water mains will occur upon occupation of the development. Further, all necessary water works will be completed prior to completion of the development.

5.4 Appliance Water Ratings

Condition B29 requires all installed water fixtures to have a AAA water rating or more. The proposal seeks to amend the AAA water rating to a 3 star WELS rating.

The proponent notes the AAA water rating is a voluntary water labelling scheme and the 3 star WELS rating system is in line with the current standards. Furthermore, WELS is Australia's national Water Efficiency Labelling Scheme that requires certain products to be registered and labelled with their water efficiency in accordance with the standard set under the national *Water Efficiency Labelling and Standards Act 2005*.

Council raises no objection to the proposed modification.

The Department supports the proposed modification to Condition B29 noting that the proposed 3 star WELS is the relevant rating system pursuant to Australian Standard AS/NZS 6400 Water Efficient Products – Rating and Labelling Standard.

6. CONCLUSION

The Section 75W application seeks to make a number of modifications to the conditions of approval. In assessing the modification request, the Department has reviewed the proposed application, Council's submission and the three public submissions.

The proposed modification to extend the construction hours is acceptable as it is consistent with Council's standard construction hours of work, it will not result in any unacceptable amenity impacts, and will allow for a more efficient construction process.

It is considered appropriate to modify Part B conditions to specify the relevant Construction Certificates to reflect the proponent's staged construction process. The upgrading of drinking water and waste water mains prior to the issue of an Occupation Certificate is acceptable.

The proposed modification to amend the water rating system is considered to provide a good level of the water efficiency for the appliances used within the development.

The modifications to the approval will result in minimal environmental and the Department accordingly recommends that the conditions included in **Appendix C** be modified.

7. RECOMMENDATION

It is recommended that the PAC as delegate for the Minister for Planning:

- (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 Approval for MP 10_0113.

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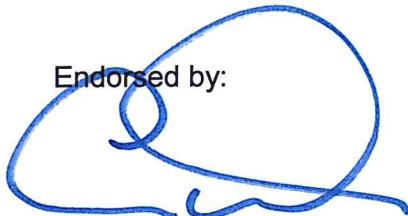
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APPENDIX A MODIFICATIONS TO PART B OF APPROVAL

Condition		Proposed Stage	Council's comment	Department's comment
B1	Car parking	Detailed architectural design of the below ground car park	Agreed	Agreed
	Street network	Demolition	Agreed	Agreed
B2	Compliance with the BCA	Any CC	Agreed	Agreed
B3	Monetary contributions	Detailed architectural design of the relevant building	Agreed	Agreed
B4	Security bond	Demolition	Agreed - Raised other concerns as discussed below	Agreed
	Enforcement levy	Demolition	Agreed – Raised other concerns as discussed below	Agreed
B5	Long service levy	Demolition	Agreed	Agreed
B6	Details of Materials, Colours and Finishes	Detailed architectural design of the relevant building	Agreed	Agreed
B7	Reflectivity	Detailed architectural design of the relevant building	Agreed	Agreed
B8	Outdoor Lighting	Detailed architectural design of the relevant building	Agreed	Agreed
B9	Disabled Access	Detailed architectural design of the relevant building	Agreed	Agreed
B10	Pre-Construction Dilapidation Reports	Demolition	Agreed	Agreed
B11	Construction Management Plan	Demolition	Agreed - Raised other concerns as discussed below	Agreed
B12	Traffic & Pedestrian Management Plan	Demolition	Agreed - Raised other concerns as discussed below	Agreed
B13	Noise & Vibration Management Plan	Demolition	Agreed - Raised other concerns as discussed below	Agreed
B14	Construction Waste Management Plan	Demolition	Agreed - Raised other concerns as discussed below	Agreed
B15	Tree Management Plan	Demolition	Agreed - Raised other concerns as discussed below	Agreed
B16	Lighting Plan	Detailed architectural design of the below ground car park	Agreed	Agreed

B17	Erosion and Sediment Control	Demolition	Agreed	Agreed
B18	Road Design	Detailed architectural design of the below ground car park	Agreed	Agreed
B19	Number of Bicycle Spaces	Detailed architectural design of the below ground car park	Agreed	Agreed
B20	Number of Loading Bays	Detailed architectural design of the below ground car park	Agreed	Agreed
B21	Car Park and Service Vehicle Layout	Detailed architectural design of the below ground car park	Agreed	Agreed
B22	Car Share Spaces	Detailed architectural design of the below ground car park	Agreed – Raised other concerns as discussed below	Agreed
B23	Storage	Detailed architectural design of the below ground car park	Agreed	Agreed
B24	Mechanical Ventilation	Detailed architectural design of the relevant building	Agreed	Agreed
B25	RMS Requirements	Excavation and site retention works	Agreed	Agreed
B26	Landscape Plan	Architectural design of the relevant building	Agreed	Agreed
B27	NatHERS Rating – Multi-Unit Housing	Detailed architectural design of the relevant building	Agreed	Agreed
B28	BASIX Certificate requirements	Detailed architectural design of the relevant building	Agreed	Agreed
B29	Water Ratings	Detailed architectural design of the relevant building	Agreed	Agreed
B30	Sydney Water Requirements	Demolition	Agreed	Agreed
B31	Storage and Handling of Operational Waste	Detailed architectural design of the relevant building	Agreed – Raised other concerns as discussed below	Agreed
B32	Stormwater and Drainage Works Design	Detailed architectural design of the below ground car park	Agreed	Agreed

Condition B4

Condition B4 requires the payment of a security bond (for an amount to be determined by Council) to ensure new roads and stormwater are completed, and Herring Road is maintained, prior to issue of the CC. It also allows for 75% of the bond to be refunded following practical completion of the development, and 25% is held by Council for a 6 month period to ensure that no damage is caused to Council's assets.

Council requested that the terms of the security bond be amended to require the amount refunded at the completion of the development to be negotiated between the proponent and Council and that the maintenance period be increased from 6 to 12 months. Council's primary concern is that 25% of the bond may not be sufficient to cover the value of the new road and stormwater works. Council also considers that a 12 month maintenance period will ensure the work is satisfactorily completed.

The Department notes that this condition was originally imposed by the PAC, following consultation with Council. Notwithstanding Council's concerns, the Department notes that the current condition allows for 75% of the bond to be refunded at practical completion, ie. after the new roads and stormwater are completed. As the works will be completed, the Department considers that retention of 25% is acceptable.

This application is only seeking to clarify the timing of the payment and does not seek to revisit the timing for the refund. It is considered inappropriate to reconsider the terms of the security bond refund and maintenance period.

The Department therefore recommends that the condition be retained as approved, and that the bond be paid prior to issue of a CC for demolition.

Conditions B11 – B14

Conditions B11 to B14 require Management Plans to be submitted to and approved by a Certifying Authority. The proponent is required to submit a copy of the approved plans to the Department and Council.

Council considers that the condition should be amended so that contact details of the responsible person (s) of each plan are to be submitted to Council. The Department notes that the condition already requires a copy of the required management plans to be submitted to Council. Therefore the existing conditions are appropriate.

Condition B15

Condition B15 requires the proponent to submit a Tree Management Plan (TMP) prepared by a suitably qualified person in accordance with City of Ryde Council's Development Control Plan 2010. Council requested the proponent to provide Council with contact details of the person/company responsible for the tree management on site for future possible enquiries and can be directed to once works have commenced. The Department notes that the condition does not require the TMP to be submitted to Council. In this regard it is considered appropriate that the proponent inform Council of the contact details. The Department has recommended an amended condition in **Appendix D**.

Condition B22

Condition B22 requires a total of 3 car share spaces to be provided for the development. Council requested that the proponent specify the location of the spaces on land that is privately owned. The proponent agreed a total of 3 car share spaces are to be identified on the title of the land provided for the development. The Department considers this modified wording to Condition B22 is acceptable, and has recommended a condition in **Appendix D**.

Condition B31

Condition B31 requires details of the storage and handling of operational waste be submitted to the satisfaction of the Certifying Authority prior to the issue of a CC. Council requested that these details also be submitted to the satisfaction of Council, as the likely on-going waste service provider to the development. The Department considers Council's request is acceptable and notes that the proponent has agreed to this change. An amended condition is recommended in **Appendix D**.

APPENDIX B MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6546

APPENDIX C SUBMISSIONS

See the department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6546