



***MODIFICATION REQUEST:  
Residential and Child Care Centre  
Development  
14-18 Boondah Road Warriewood  
MP10\_0177 MOD 12***



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

November 2012

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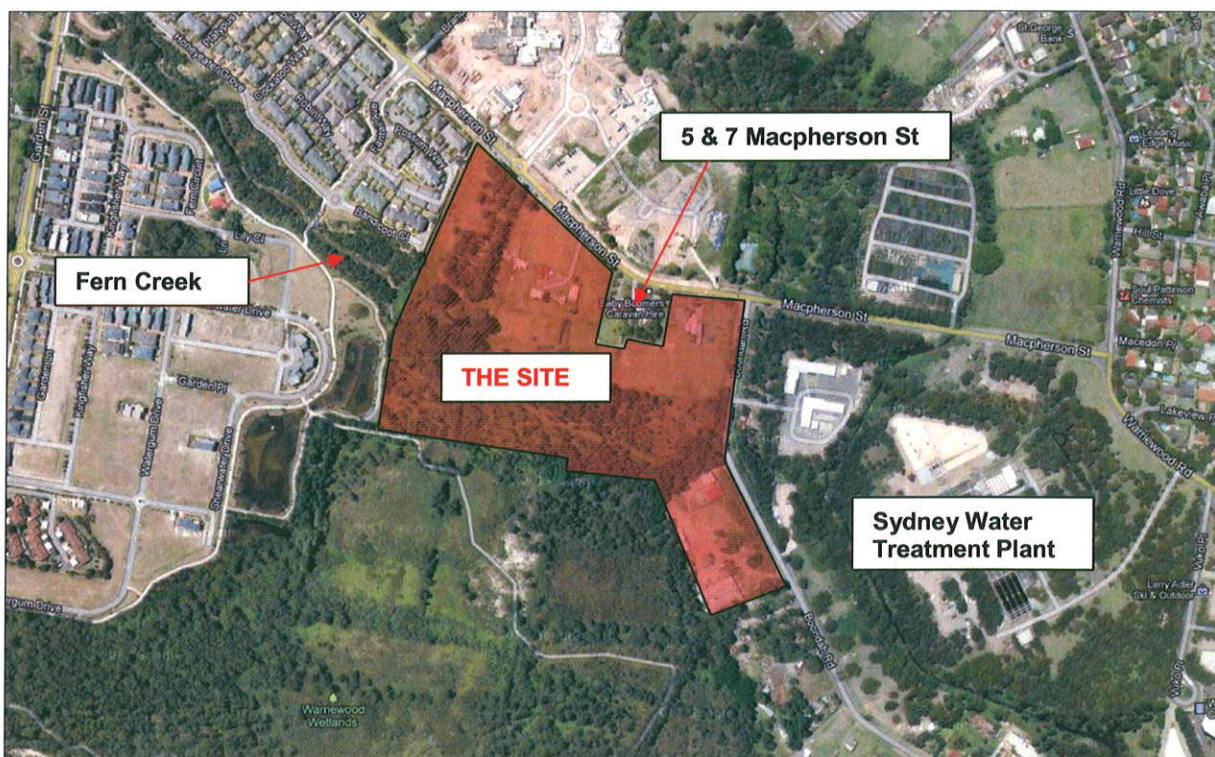
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## 1.1 The Site

The site is currently being developed in accordance with the approved Stage 1 Project Approval (MP 10 0177).

The site locality and site boundary is illustrated in **Figure 1**.



### Figure 1: The Site

## 1.2 Previous Approvals

On 18 January 2011, the Planning Assessment Commission (PAC) approved a Concept Plan (MP 09\_0162) for a multi-unit housing development and child care centre, private and public open space, parking, road works, pedestrian and cycle pathway, landscaping and ecological rehabilitation works.

The PAC also issued Stage 1 Project Approval (MP 10 0177) for a development comprising:

- demolition of the existing buildings and structures on site and tree removal;
- excavation, earthworks and flood mitigation works;
- construction of 7 residential buildings apartments with associated pools and gymnasium;
- childcare centre;
- external road works, internal public access roads, pedestrian and cycle way; and
- ecological rehabilitation and landscaping works.



### 1.3 Previous Modifications

A number of modification applications have been pursued by the proponent. These modification applications are summarised in **Table 1** below.

**Table 1: Previous Modifications**

<b>Project Modifications</b>		
<b>Modification No.</b>	<b>Application details</b>	<b>Determination</b>
MP10_0177 MOD 1	The deletion of the second basement level and provision of a total of 474 spaces within a single level basement. Amendment to Condition B13 to provide for a car parking rate of 2 resident car parking spaces per 2 bedroom unit and 1 visitor car parking space per 5 units.	Approved by PAC on 15 July 2011
MP10_0177 MOD 2	Modification of Condition C19 – Ground water to allow for the installation of a permanent pumping system to ensure the basement is free of stormwater.	Approved by the Director General on 12 October 2011
MP10_0177 MOD 3	Amendment to the basement car park plan including the deletion of a vehicular entry/exit point.	Approved by PAC on 15 November 2011
MP10_0177 MOD 5	Amendment to Condition C21 relating to CPTED measures within the basement car park for the painting of the soffit.	Approved by PAC on 12 January 2012
MP10_0177 MOD 7	Staged strata subdivision of Buildings A, B, C, D, E, F, G and Pool Building.	Approved by the Deputy Director General on 18 April 2012
MP10_0177 MOD 4	Staging of road works within Boondah Road and Macpherson Street, staging of landscaping and deletion of requirement for cost sharing of the roundabout at the entry to the Anglican Retirement Village.	Approved by PAC on 10 May 2012
MP10_0177 MOD 8	Amend the wording of various conditions relating to the timing of the development including C2(c), C2(d), C12(d), C12(e), F4, F12, F13, F14(a), F16 and F17.	Approved by the Deputy Director General on 23 May 2012
MP10_0177 MOD 6	Deletion of internal roadway linking Macpherson Street and Boondah Road and replacement with two private roads and realignment of the bicycle path route.	Approved by the PAC on 12 June 2012
MP10_0177 MOD 9	Design modifications to Buildings E and G including the addition of studies, storage cupboards, windows and door openings, 'pop-up' roofs and extension of a roof slab.	Approved by the DDG on 16 July 2012.
MP10_0177 MOD 10	Amendment of the ground floor level of the swimming pool building and correction of an administration error related to BASIX certification.	Approved by the DDG on 24 August 2012
MP09_0162 MOD 2 and MP10_0177 MOD 11	Reduce the car park rate for 2 bedroom units from 2 to 1.5 spaces for Stage 2, clarify the extent of reconstruction works to Boondah Road, alter the timing for the payment of developer contributions and revise correct plan references.	Part approved by the PAC on 6 November 2012

## 2. PROPOSED MODIFICATION

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Approval is sought to modify the Project Approval (MP10\_0177) in relation to the Stage 1 works. The proposal seeks to introduce various internal and external design changes to the following buildings:

### *Building F*

- the introduction of a study to Unit 349;
- a change to the location of the laundry and bathroom to Unit 354 and the layout of the adjacent foyer;
- an extension of roof overhangs along the north and west elevations; and
- raised sections of roofing over two balconies on the north elevation.

### *Building G*

- the introduction of a portico to the building entrance on the west elevation;
- modification to the extent of the roof overhang; and
- amendment of the layout to plant areas located on the roof level.

### *Pool Building*

- a decrease in the head height of windows on the east elevation;
- an increase in the head height of windows on the south elevation;
- the reshaping of the kids pool and the addition of a plunge pool;
- the relocation of the spa to be adjacent to the pool area;
- a decrease in the size of the sauna;
- additional area added to the plant room;
- the modification of doors and windows on the north and west elevations;
- an external column added to the southwest entry; and
- a skylight added over the pool area.

As a result of the modifications listed above, Condition A1 in Schedule 2 of the approved instrument is proposed to be amended to include reference of three revised plans (DA26, DA28 and DA30).

## 3. STATUTORY CONTEXT

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### **3.1 Continuation of Part 3A**

Under clause 3C of Schedule 6A to the *Environmental Planning & Assessment Act 1979* (the Act), Section 75W of the Act (as in force immediately before its repeal on 1 October 2011) continues to apply for the purpose of the modification of a project application approved before or after the repeal of Part 3A.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Department may approve or disapprove of the modification to the project under Section 75W of the Act.

### **3.2 Modification of the Minister's Approval**

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including "revoking or varying a condition of the approval or imposing an additional condition of the approval".

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks various design changes requiring the amendment of a condition on the Project Application approval and therefore, approval to modify the application is required.

### 3.3 Environmental Assessment Requirements

No additional environmental assessment requirements were issued with respect to the proposed modification, as sufficient information has been provided to the Department in order to consider the application and the issues raised remain consistent with the key assessment requirements addressed in the original DGRs.

### 3.4 Delegated Authority

The Minister has delegated his functions to determine section 75W modification applications to the Deputy Director General, Development Assessment & Systems Performance where:

- the relevant 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 objecting to the proposal.

No submissions were received from the public and Pittwater Council did not object to the proposal. While a donation has not been disclosed in relation to this application, the proponent provided a statement disclosing a reportable political donation with the previous Concept Plan (MP09\_0162).

Accordingly this modification application is referred to the Deputy Director-General, Development Assessment & Systems Performance for determination.

## 4. CONSULTATION AND SUBMISSIONS

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Under Section 75W of the Act, a request to modify an approval does not require public exhibition. However, under Section 75X(2)(f) of the Act, the Director-General is required to make publicly available requests for modifications of approvals given by the Minister.

In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the application to modify the approval was made publicly available on the Department's website and was referred to Pittwater Council.

### 4.1 Pittwater Council

Pittwater Council does not object to the proposal subject to the Department being satisfied that the proposed reconfiguration of dwellings does not result in other changes that will affect car parking requirements and deep soil planting calculations.

## 5. ASSESSMENT

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The Department considers the key issues for the proposed modification to be:

- Consistency with SEPP 65 and the RFDC
- Car parking and deep soil area

### 5.1 Consistency with SEPP 65 and the RFDC

Compliance with the provisions of *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development* (SEPP 65) and the Residential Flat Design Code 2002 (RFDC) is considered a key issue regarding the modification request as various design changes are proposed to the buildings of the development.

A number of internal and external design changes are proposed to Buildings F, G and the Pool Building. Several examples of these design changes are shown in **Figures 2, 3 and 4** on the following pages.





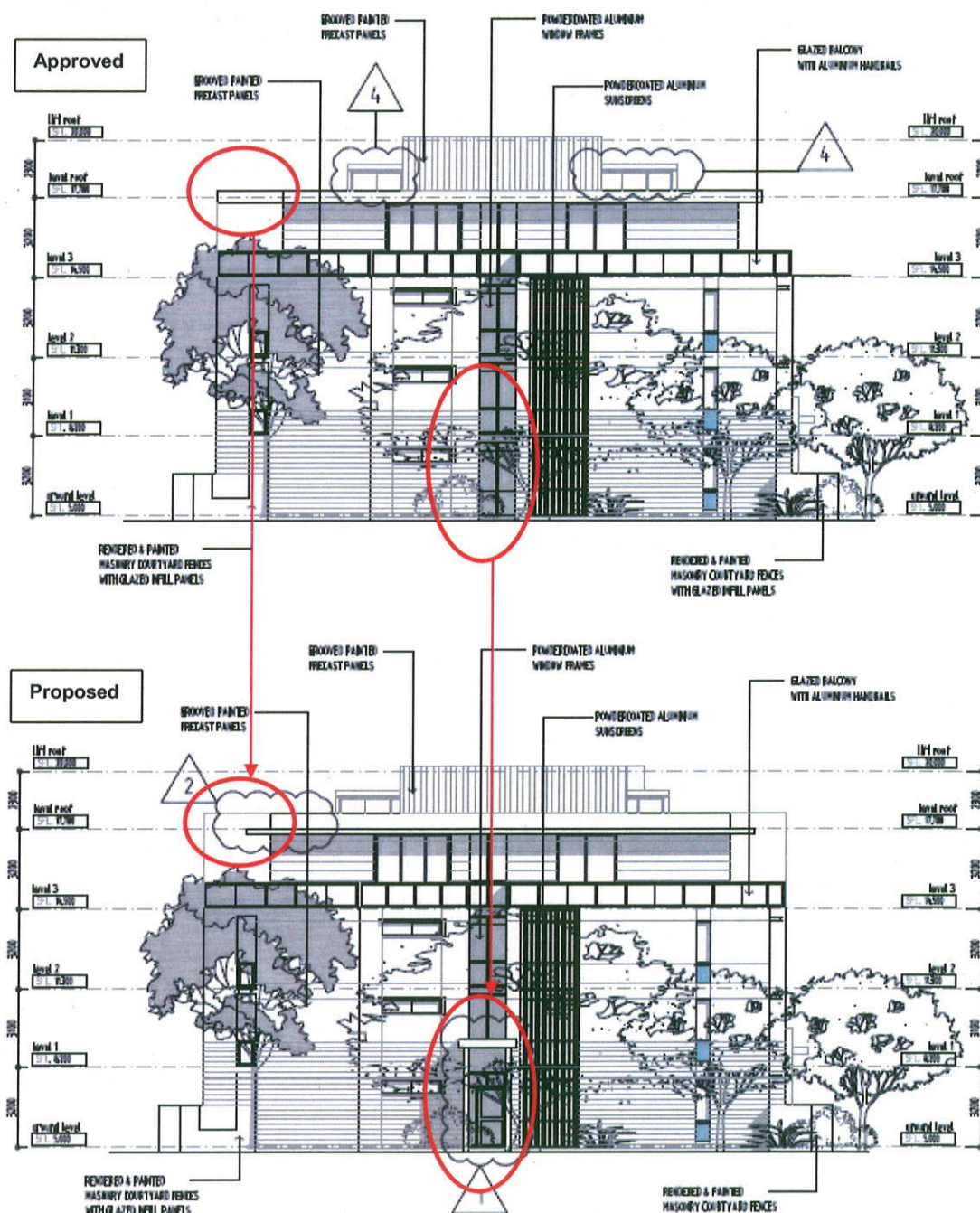


Figure 3: Extended roof overhang and new portico to the north and west elevations of Building G



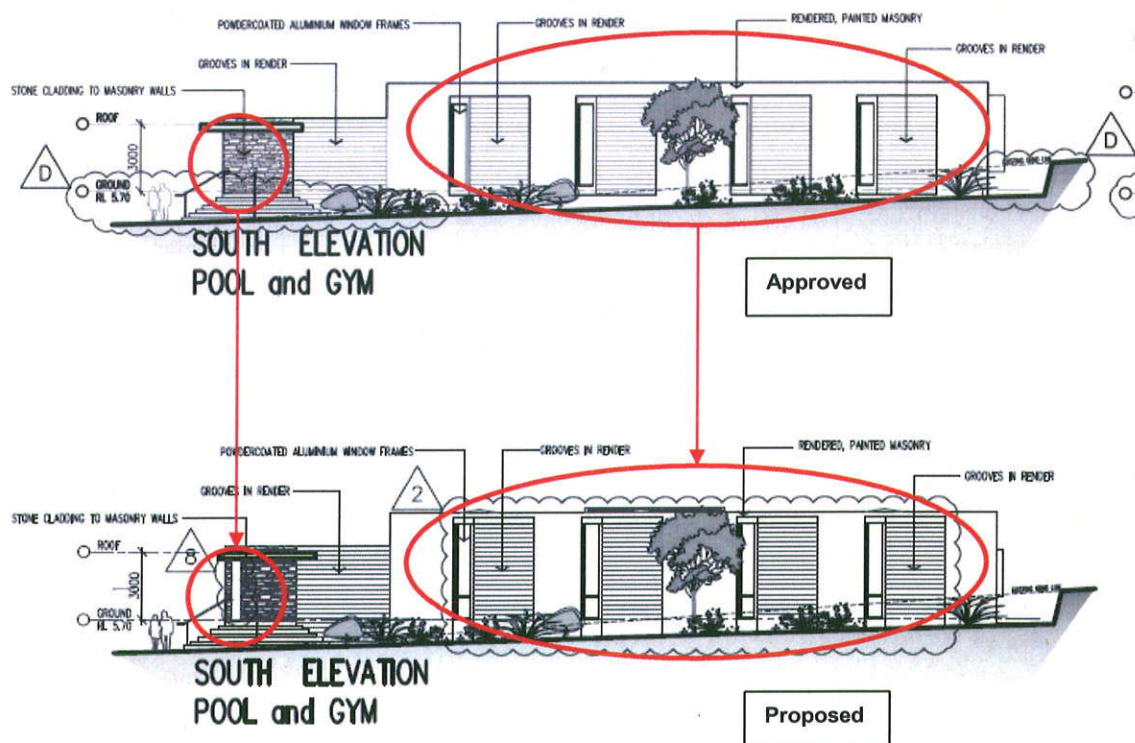


Figure 4: Proposed modification to height of Pool Building windows

By comparing the approved and proposed elevations in **Figures 2, 3 and 4**, it is apparent that the increase in the bulk and scale of the buildings is negligible and that no significant change is proposed to the design aesthetic of the buildings from the current approval. The proposal is therefore considered acceptable in this regard.

The internal design modifications proposed to Building F and the Pool Building are considered minor in scale and would maintain an acceptable level of internal amenity in accordance with the provisions of the RFDC.

The Department therefore considers the proposed internal and external design modifications to be minor in scale and consistent with the provisions and requirements of SEPP 65 and the RFDC.

## 5.2 Car parking and deep soil area

Council raised no objection to the proposal subject to the Department being satisfied that there will be no impact on the car parking or deep soil planting requirements of the approved development.

The determination of the original development required that car park spaces are to be provided in accordance Council's DCP requirements, which identifies specific rates based on the number of bedrooms contained in a unit. The internal layout of Unit 349 is modified under this application by the addition of a study. The proposed study occupies a portion of an approved bedroom, which is depicted in **Figure 5** below.



**Figure 5:** Approved and proposed layout of Units 349 and 354 and the Foyer in Building F

In comparing a portion of the approved and proposed floor plans of Building F, the size of the proposed study is considered to be sufficiently constrained making it undesirable for use as a bedroom. Furthermore, even if an additional bedroom was added to Unit 349, resulting in a total of 4 bedrooms, no change to the required number of car park spaces would result as no rate exists for units containing over 3 bedrooms under Council's DCP or the RMS guidelines.

With regard to the provision of deep soil area, the proposed internal and external design changes would not alter the siting of the approved footprints of Buildings F, G and the Pool Building. Consequently, there would be no change to the approved provision of deep soil planting on the development site.

The Department therefore considers the proposed design changes would not affect the provision of car parking or deep soil planting required under the current approval.



## 6. CONCLUSION

The Department is satisfied that this modification application falls within the scope of section 75W of the Act. The proposed design modifications to Buildings F, G and the Pool Building maintain consistency with the objectives and requirements of SEPP 65 and the Department's RFDC. Council has not objected to the proposal subject to car parking and deep soil requirements being unaffected. In this regard, the Department is satisfied that no change to the approved provision of car parking and deep soil planting will result from the proposed modifications as discussed in detail under Section 5 of this report. Lastly, the proposal does not alter the original assessment as to the site's suitability for this development.

The Department therefore raises no issue with the modifications sought under this application and recommends its approval.

## 7. RECOMMENDATION

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

- (A) **Consider** the findings and recommendations of this report; and
- (B) **Approve** the Director-General's Environmental Assessment Report under *Section 75W Application Environmental Planning and Assessment Act 1979*, and
- (C) **Sign** the attached Instrument of Modification (**Appendix C**).

Endorsed by:

  
Director 14/11/2012  
Metropolitan & Regional Projects South

  
Executive Director  
Major Projects Assessment

Approved by:

  
Deputy Director-General  
Development Assessment & Systems Performance



## **APPENDIX A      MODIFICATION REQUEST**

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## **APPENDIX B SUBMISSIONS**

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## **APPENDIX C    RECOMMENDED MODIFYING INSTRUMENT**

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