

Thursday, 23 August 2012

Anthony Witherdin  
Acting Director, Metropolitan Projects  
NSW Department of Planning and Infrastructure  
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Sydney NSW 2000

Architecture  
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Attention: Anthony Witherdin  
Acting Director, Metropolitan Projects

**RE: 128 Herring Road, Macquarie Park  
Section 75W Modification to Concept Plan MP 09\_0195**

Dear Anthony,

We write on behalf of Toga Macquarie Developments Pty Ltd, developers of a portion of the property at 128 Herring Road, Macquarie Park, to submit a Section 75W Modification Application to modify the Concept Plan Application MP 09\_0195 consent. The Concept Plan Approval for a mixed use residential and retail development was granted by the NSW Department of Planning and Infrastructure (formerly, NSW Department of Planning) on 20 January 2011 and relates to Buildings A, B, C, D and E. This approval was amended by MOD 1 that was granted consent on 11 July 2011, and MOD 2 that was granted consent on 23 March 2012.

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This report describes an application made under Section 75W of the *Environmental Planning and Assessment Act 1979* (historical version up to 8 July 2011, as per Planning Circular 11-021) (EP&A Act). Major Project MP 09\_0195 was approved under the now repealed Part 3A of the EP&A Act. Under this application, it is proposed to raise the ground level of Buildings C and D to reflect Council's approval of the new road (LDA 2012/114); to remove additional trees across the broader site; and amend the roof and plant configuration.

The proposed modification to the ground floor level to Buildings C and D helps reduce the volume of excavation required to accommodate the basement levels and also to better align the ground floor level with the level of the proposed new road (as approved by Development Application LDA 2012/0114 by the Joint Regional Planning Panel on 9 August 2012). It is noted that originally, the road design was lower, which required further land excavation. The subsequent approved road levels are better aligned with natural ground level and improve clearance for the 1:100 flood event.

The proposed modifications for tree removal across the site that were originally proposed for retention, however need to be removed to address safety concerns and impacts of the development on the health and stability of trees.

The proposed modification to the roof form is to rationalise the proposed roof and plant areas.

The proposal seeks to amend the Concept Plan MP 09\_0195 (as modified) Condition A2 and provide further information to reflect the proposed modifications.

This report should be read in conjunction with the following attached documentation:

- **Attachment A:** Architectural drawings subject of this Section 75W MOD 3 Application, prepared by Architectus Group Pty Ltd;

Architectus Group Pty Ltd  
ABN 90 131 245 684

Managing Director:  
David Sainsbery  
Nominated Architect  
NSWARB 5551  
ARBV 13176

- **Attachment B:** Conditions of Approval MP 09\_0195 and approved modifications (MOD 1 and MOD 2), *issued by the NSW Department of Planning and Infrastructure*;
- **Attachment C:** Proposed Concept Plan Urban Control Diagram amendments, *prepared by Turner and Associates*;
- **Attachment D:** Arboricultural Assessments, *prepared by Urban Forestry Australia*;
- **Attachment E:** Tree Management Plan, *prepared by Turf Design*; and
- **Attachment F:** Approved Civil Drawings for new road (DA/2012/114), *prepared by TTW*.

## 1. Site and locality

The subject site is located on part of 128 Herring Road, Macquarie Park, within the City of Ryde Local Government Area (LGA). The subject site was formerly part of the Morling College site at 120-128 Herring Road, Macquarie Park.

The site is bounded by Herring Road to the southeast, Morling College to the southwest, Macquarie University and University Creek to the northwest and Dunmore Lang College to the northeast.

The area of the subject site is 1.312 hectares, and has a frontage length of 120 metres to Herring Road.

The site is legally described as Lots 1 and 2 in DP 1163230.

## 2. Development consent history

This application seeks to modify Concept Plan Application MP 09\_0195 for a mixed use retail and residential development.

### 2.1 Concept Plan MP 09\_0195

The Concept Plan Application, MP 09\_0195 was lodged to the Department of Planning in May 2010, and exhibited between 26 May and 25 June 2010. MP 09\_0195 was approved on 20 January 2011.

### 2.2 Concept Plan MP 09\_0195 MOD 1

On 11 July 2011, a Modification Application (MP\_0195 MOD 1) was approved by the Director General of the NSW Department of Planning and Infrastructure which sought to make minor modifications to Buildings B, C, D and E and modify the Concept Plan Conditions of Consent to reflect these modifications.

The above Concept Plan Application was submitted together with Major Project Applications for the Subdivision and Building A.

### 2.3 Concept Plan MP 09\_0195 MOD 2

On 23 March 2012, a Modification Application (MP 09\_0195 MOD 2) was approved by the Acting Director of Metropolitan and Regional Projects South of the NSW Department of Planning and Infrastructure which sought to permit residential dwellings at the lower ground floor of Building C, through the conversion of above ground parking to residential apartments; provide an additional basement parking level; and the reallocation of 126m<sup>2</sup> of gross floor area from Building D to Building C.

### 2.4 Subdivision Application MP 09\_0217

MP 09\_0217 – Subdivision Application was to facilitate subdivision of the site from the Morling College site and to subdivide the development site to reflect the anticipated development outcome, including a new road. The Subdivision Plan Application was approved on 20 January 2011. A modification to this application to the boundaries of development lots was approved on

11 July 2011. A subsequent modification was approved to modify the type of subdivision from Torrens Title to Community Title and was approved by the NSW Department of Planning and Infrastructure on 13 March 2012.

## 2.5 Stage 1 Application MP 09\_0218

MP 09\_0218 – Stage 1 Project Application was for a mixed use residential/retail building comprising 129 apartments, retail, associated parking and public domain works. This Project Application was also approved on 20 January 2011. A modification for this application was approved on 11 July 2011.

## 2.6 DA for Building B (reference number: LDA/2011/0578)

On 9 November 2011, a Development Application for Building B was submitted to the City of Ryde Council for a 12 storey residential development comprising 117 dwellings. This Development Application was approved by the Sydney East Region Joint Regional Planning Panel (JRPP) on 15 March 2012.

## 2.7 DA for Buildings C and D (reference number: DA/2012/114)

On 23 April 2012, a Development Application for Buildings C and D was submitted to the City of Ryde Council for two residential buildings, one being nine (9) storeys (Building D) and the other being 12 storeys (Building B) in height. This Development Application was approved by the JRPP on 9 August 2012.

The approved architectural drawings do not match the approved level of the road as per the Civil Drawings (provided at **Attachment E** to this report).

## 3. The proposed modifications

The modifications proposed by this Section 75W Application are as follows:

- Adjust the ground floor level of Buildings C and D to align with the approved level of the new road;
- Remove an additional eight (8) trees across the site (including two (2) trees at the Building A site, three (3) at the Building B site, and three (3) at the Building C & D site.
- Reduce the size of the basement footprint at Level B3;
- Submit a revised Tree Management Plan to reflect the removal of the existing trees; and
- Amend Condition A2 of the Conditions of Approval to reflect the above proposed modifications.

The proposed modifications are described in detail below.

### 3.1 Modification to Building C and D Ground Floor levels

It is proposed that the Ground Floor levels of Buildings C and D approved under MP 09\_0195 be amended, so that:

- The Ground Floor level of Building C is raised from RL 63.300 to RL 64.310; and
- The Ground Floor level of Building D is raised from RL 60.100 to RL 61.210.

These modifications are reflected on the amended Urban Control Diagram Plan and Elevation provided at **Attachment C**.

The raising of the Ground Floor level will not increase the overall building height, as floor to floor levels will be reduced from 3.1 metres to 3.03 metres. The floor to ceiling height within habitable rooms will be retained at 2.7 metres generally, except for minor localised reductions.

The proposed modification will better align the ground floor level with the approved road levels (as per the approved under DA 2012/0114) and will also reduce the volume of bulk earthworks

required on the site. The original road design required the road to be cut into the natural ground level. The current approved road design better aligns with natural ground level.

The reduction in the volume of excavation will reduce the impacts of these works on surrounding properties and the surrounding area through reduced excavation related vehicle movements across the local road network and reduced noise and construction related impact through reduced time frames required for excavation activity.

The visual impact on the streetscape at areas where the basement walls project above the ground level will be managed through appropriate landscaped treatment. Landscape terraces will be provided in front of the Building C wall to soften the perceived bulk of the projecting wall. It is considered the proposed amendments provide an appropriate street address to the new road. Furthermore, the proposed raising in ground level height decreases the risk of flood affectation, providing an additional safety buffer above the 1:100 year flood level.

The proposed modification provides an improved visual amenity to the new road streetscape, with stepped terraces and landscaping to soften the appearance of the basement projection.

### 3.2 Tree removal

It is proposed that an additional eight (8) trees be removed across the site, including:

- Removal of an additional two (2) trees across the Building A site;
- Removal of an additional three (3) trees across the Building B site; and
- Removal of an additional three (3) trees across the Buildings C and D site.

Further assessment of trees on the subject site was made following the initiation of construction works and more detailed design development. This assessment is provided at **Attachment D** to this report.

Refer to the Tree Management Plan at **Attachment E** for the location of trees to be removed by this modification. These trees are described below.

#### Building A site tree removal:

At the Building A site, it is proposed that a further two (2) trees be removed, including:

- Tree 24 (Common Coral tree) – to be removed for safety reasons; and
- Tree 27 (Monterey Cypress) – to be removed due to unacceptable impacts of construction on the Tree Protection Zone, crown structure and tree form. Detailed design modifications were considered for protection of this tree, however these could not be reasonable accommodated.

A further three (3) trees (Trees 25, 26 and 28) were assessed by the Arborist due to concerns for potential damage to these trees as a result of construction activity and detailed design development. It was found that these trees could be retained subject to the required Tree Protection Measures as detailed in the Arboricultural Assessment at **Attachment D** to this report. It is also noted that detailed design modification was undertaken to ensure the retention of Tree 28.

#### Building B site tree removal:

At the Building B site, it is proposed that a further three (3) Grey Gum trees be removed, being Trees 21, 22 and 23, as insufficient space is available as a result of the proposed construction works to ensure the trees can be retained in good rigour and sound anchorage. Further detail is provided as part of the Arboricultural Assessment at **Attachment D** this report.

#### Building C and D sites tree removal:

At the Buildings C and D site, it is proposed that a further three (3) trees be removed, including:

- Tree 2 (Smooth-barked Apple) – to be removed for safety reasons as the tree now leans heavily within the approved building zone;

- Tree 15/16 (Turpentine) – due to identified, substantial development impacts; and
- Tree 20 (Bangalay) – due to identified, substantial development impacts.

It is also noted whilst Tree 18 (Bangalay) may be retained, it is not suitable for long term retention. Further detail is provided as part of the Arboricultural Assessment at **Attachment D** to this report.

Tree 16 is noted on the revised Tree Management Plan as proposed for removal as part of this Section 75W Modification. Tree 16 was shown on the Concept Plan as existing on site and was referred to in the relevant Arborist Report and Landscape Plan. However it is noted in the Arborist report at **Attachment D** that this tree does not exist on site.

#### Total Trees to be removed across precinct

The Section 75W Modification proposes an additional 8 trees to be removed. [As noted above, tree 16 no longer exists].

This brings the total number of trees to be removed (subject of Concept Plan and this Section 75W Modification) across the broader precinct (Buildings A to E and riparian zone) to 70 trees.

#### Offset strategy:

Off-set plantings were approved in the Concept Plan as part of the Landscape Plans and Vegetation Management Plan. These offset zones comprise Offset Restoration Zones, Riparian Restoration Zone, and streetscape planting zone, and are noted on the revised Tree Management Plan at **Attachment E**

The proposed offset planting proposed in the Concept Plan included:

- Offset Restoration Zones A, B & C: 50 local native trees proposed;
- Riparian restoration zone: area outside tree canopy will be planted with 1 tree or shrub per square metre;
- Ryde Council streetscape: local native trees will be planted.

It should be noted that the Vegetation Management Plan (Concept Plan) specifies there will be naturally assisted regeneration (bush regeneration) and revegetation of the riparian zone. The aim of the regeneration works for the Riparian Corridor is to enhance the corridor values and habitat potential of the subject site and adjacent site's plant communities.

Given the extent and number of additional local native trees that will be planted across the precinct, it is considered that this will more than compensate for the proposed additional trees to be removed.

### **3.3 Submit a Tree Management Plan to reflect the proposed tree removal**

The Tree Management Plan has been amended to reflect those trees that are proposed to be removed as part of this Section 75W Modification. This plan is provided at **Attachment E** to this report.

### **3.4 Reduce the basement footprint**

It is proposed that the footprint of Basement Level 3 within Buildings C and D be reduced. Following detailed design development, the parking layout efficiency has been improved. Whilst maintaining the required number of car and bicycle parking spaces, and compliance with Australian Standards, the efficiency improvements will allow for a reduction in extent of excavation. Efficiency has been improved through the rationalisation of egress stairs and storage areas, and the relocation of stormwater detention tanks from the basement parking areas to under the access ramp and the lower ground floor of Building C.

### **3.5 Amend roof and plant**

It is proposed that the roof and plant areas be reconfigured for rationalisation of rooftop plant. The changes (shown in detail at **Attachment A** to this report), include:

- Reduction in the roof height of Building C from RL 101.890 to RL 101.290;
- Reduction in the roof height of Building D from RL 89.940 to RL 89.170;
- Modification of plant areas and increase in plant height to RL 103.600 (Building C) and RL 91.400 (Building D). The proposed plant height is at the maximum permissible building height under the Concept Plan approval.

The proposed rationalisation of roof and plant is not considered to have any significant adverse impacts on the locality. The roof height overall is being reduced to both buildings, whilst the plant area is being increase marginally, however not beyond the maximum permissible Concept Plan height.

### 3.6 Amend Condition A2 of the Conditions of Approval

It is proposed that Condition A2 of the Conditions of Approval to MP 09\_0195 (as amended) be modified to reflect the changes proposed, and described under **Sections 3.1 to 3.5** of this report. It is proposed that Condition A2 be amended to read as follows (modifications shown in red text):

#### **'A2 Development in Accordance with Plans**

- (1) *The approval shall be generally in accordance with MP 09\_0195 and with the Environmental Assessment (May 2010) prepared Urbis, except where amended by the Preferred Project Report (September 2010) prepared by Urbis, and, additional information to the Preferred Project Report (October 2010), and the drawings prepared by Turner and Associates Architects, Turf Design, Landscape Architect, and Taylor Thomson Whitting, Consulting Engineers, as amended by the Section 75W modification (MP\_0195 MOD 1) dated 24 March 2011 prepared by Urbis including amended plans prepared by Turner and Associates Architects and associated documentation; as amended by the Section 75W modification (MP 09\_0195 MOD 2) dated 2 December 2011 prepared by Architectus (as amended by correspondence received on 8 February 2012 and 17 February 2012) and associated documentation; as amended by the Section 75W modification (MP 09\_0195 MOD 3) dated [INSERT DATE OF MOD 3], prepared by Architectus and associated documentation;*

| <b>Concept Plans by Turner and Associates, Architects</b> |                 |  |             |
|---|-----------------|--|-------------|
| <b>Drawing No</b>   | <b>Revision</b> | <b>Name of Plan</b>                                    | <b>Date</b> |
| A103  | I               | 09047 Site Context Plan Future                         | 30/11/11    |
| A170  | B               | 09047 Relocated car parking and temporary sales office | 2/09/10     |
| A108  | B               | 09047  | 30/09/10    |
| A110  | B               | 09047  | 30.09/10    |
| A122  | N               | 09047  | 29/09/10    |
| A123  | N               | 09047  | 29/09/10    |
| A124  | O               | 09047  | 29/09/10    |
| A125  | P               | 09047 Illustrative Plan B1_RL63.3                      | 01/03.11    |
| A126  | Q               | 09047 Illustrative Herring Road Floor Plan             | 01/03/11    |
| A127  | R               | 09047 Illustrative Typical Floor Plan                  | 01/03/11    |
| A128  | I               | 09047  | 29/09/10    |
| A129  | Q               | 09047 Illustrative Roof Plan                           | 30/11/11    |

| A136  | G               | 09047 Illustrative East Elevation                | 01/03/11                     |
|---|-----------------|--|------------------------------|
| A137  | G               | 09047 Illustrative North Elevation               | 01/03/11                     |
| A138  | E               | 09047 Illustrative West Elevation                | 01/03/11                     |
| A139  | I               | 09047 Illustrative South Elevation               | 17/03/11                     |
| A141  | H               | 09047 Illustrative Section AA                    | 18/03/11                     |
| A142  | F               | 09047 Illustrative Section BB                    | 01/03/11                     |
| A143  | F               | 09047 Illustrative Section CC                    | 01/03/11                     |
| A144  | G               | 09047 Illustrative Section DD                    | 01/03/11                     |
| A145  | G               | 09047 Illustrative Section EE                    | 01/03/11                     |
| A161  | <del>K</del> L  | 09047 Illustrative Context Sections              | <del>16/02/12</del> 31/07/12 |
| A162  | <del>H</del> I  | 09047 Urban Control Elevations                   | <del>30/11/11</del> 31/07/12 |
| <b>Landscape Plans for Turf Design, Landscape Architect</b>                           |                 |  |                              |
| <b>Drawing No</b>   | <b>Revision</b> | <b>Number of Plan</b>                            | <b>Date</b>                  |
| L4  | E               | Project No. 0924                                 | 24/09/10                     |
| <del>L5</del> LP-3  | E               | <del>Project No. 0924</del> Tree Management Plan | <del>24/09/10</del> 09/08/12 |
| L6  | E               | Project No. 0924                                 | 24/09/10                     |
| L7  | C               | Project No. 0924                                 | 13/09/10                     |
| L8  | D               | Project No. 0924                                 | 24/09/10                     |
| L9  | C               | Project No. 0924                                 | 13/09/10                     |
| L10   | C               | Project No. 0924                                 | 13/09/10                     |
| L11   | C               | Project No. 0924                                 | 13/09/10                     |
| L12   | C               | Project No. 0924                                 | 13/09/10                     |
| L13   | A               | Project No. 0924                                 | 13/09/10                     |
| L14   | B               | Project No. 0924                                 | 13/09/10                     |
| L15   | B               | Project No. 0924                                 | 13/09/10                     |
| <b>Stormwater Engineering Plans by Taylor Thomason Whitting, Consulting Engineers</b> |                 |  |                              |
| <b>Drawing No</b>   | <b>Revision</b> | <b>Number of Plan</b>                            | <b>Date</b>                  |
| C102  | P8              | 091679   | 29/09/10                     |
| C103  | P7              | 091679   | 29/09/10                     |
| C104  | P7              | 091679   | 29/09/10                     |
| C105  | P6              | 091679   | 29/09/10                     |
| C202  | P8              | 091679   | 29/09/10                     |
| C203  | P8              | 091679   | 29/09/10                     |
| C205  | P9              | 091679   | 29/09/10                     |
| C209  | P8              | 091679   | 29/09/10                     |
| C302  | P7              | 091679   | 29/09/10                     |
| C402  | P7              | 091679   | 29/09/10                     |

|      |    |        |          |
|------|----|--------|----------|
| C502 | P7 | 091679 | 29/09/10 |
| C601 | P9 | 091679 | 29/09/10 |
| C602 | P9 | 091679 | 29/09/10 |

Except for as modified by the following drawings:

| <b>Architectural Drawings of Buildings C and D by Architectus Group Pty Ltd</b> |                 |   |                                  |
|---|-----------------|---|----------------------------------|
| <b>Drawing No</b>   | <b>Revision</b> | <b>Number of Plan</b>   | <b>Date</b>                      |
| DA00-000  | D               | Cover Sheet   | 08/08/2012                       |
| DA00-001  | D               | Site Plan   | 08/08/2012                       |
| DA00-002  | E               | Site Plan Analysis  | 08/08/2012                       |
| DA01-001  | <del>D</del> H  | Basement B3 Plan  | <del>07/02/2011</del> 08/08/2012 |
| DA01-002  | <del>D</del> J  | Basement B2 Plan  | <del>07/02/2011</del> 08/08/2012 |
| DA01-003  | <del>D</del> K  | Basement B1 Plan  | <del>07/02/2011</del> 08/08/2012 |
| DA01-004  | <del>D</del> L  | Building C – Lower Ground<br>Building D – Ground                  | <del>07/02/2011</del> 08/08/2012 |
| DA01-005  | <del>A</del> H  | Building C – Ground Floor<br>Building D – Level 01                | <del>16/11/2011</del> 08/08/2012 |
| DA01-006  | H               | Building C – Level 1<br>Building D – Level 2                      | 08/08/2012                       |
| DA01-007  | H               | Building C – Level 2 & 6<br>Building D – Level 3, 6, 7, 8         | 08/08/2012                       |
| DA01-008  | H               | Building C – Level 3, 5, 7, 8<br>Building D – Level 5, 9          | 08/08/2012                       |
| DA01-013  | H               | Building C – Level 9 (Roof Building D)<br>Building D – Roof Level | 20/08/2012                       |
| DA01-014  | H               | Building C – Level 10 and 11                                      | 08/08/2012                       |
| DA01-016  | H               | Building C – Level 12   | 08/08/2012                       |
| DA01-017  | G               | Building C – Roof Level   | 20/08/2012                       |
| DA01-018  | E               | Gross Floor Area  | 08/08/2012                       |
| DA02-001  | <del>A</del> H  | North-East Elevation  | <del>01/12/2011</del> 20/08/2012 |
| DA02-002  | <del>A</del> F  | South-West Elevation  | <del>01/12/2011</del> 20/08/2012 |
| DA02-003  | F               | Building C Elevations   | 20/08/2012                       |
| DA02-004  | G               | Building D Elevations   | 20/08/2012                       |
| DA03-001  | <del>B</del> G  | Longitudinal Section  | <del>07/02/2011</del> 20/08/2012 |
| DA03-002  | <del>B</del> G  | Cross Sections  | <del>08/02/2011</del> 20/08/2012 |
| DA03-010  | E               | Detail Sections 1-2   | 08/08/2012                       |
| DA03-011  | F               | Detail Sections 3-4   | 08/08/2012                       |
| DA09-001  | E               | Perspective Views   | 08/08/2012                       |



|          |   |                                      |            |
|----------|---|--------------------------------------|------------|
| DA09-002 | D | Shadow Diagrams                      | 08/08/2012 |
| DA09-003 | B | Type H_1 BEDROOM Adaptable Apartment | 08/08/2012 |
| DA09-004 | D | TYPE G_1 BEDROOM Adaptable Apartment | 08/08/2012 |
| DA09-005 | D | TYPE L_1 BEDROOM Adaptable Apartment | 08/08/2012 |

*Except as modified by the following pursuant to Section 75O(4) of the Act.”*

#### 4. Environmental Assessment

This section assesses the proposed modifications against the relevant legislation and planning considerations.

##### 4.1 Section 75W modification of Minister’s approval

Section 75W of the EP&A Act states the following:

##### ***‘75W Modification of Minister’s approval***

(1) *In this section:*

*“Minister’s approval” means an approval to carry out a project under this Part, and includes an approval of a concept plan.*

*“Modification of approval” means changing the terms of a Minister’s approval including:*

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
- (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval*

(2) *The proponent may request the Minister to modify the Minister’s approval for a project. The Minister’s approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.*

(3) *The request for the Minister’s approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modifications that the proponent must comply with before the matter will be considered by the Minister.*

(4) *The Minister may modify the approval (with or without conditions) or disapprove of the modification.*

(5) *The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request within 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.*

(6) *Subsection (5) does not apply to a request to modify:*

- (a) An approval granted by or as directed by the Court on appeal, or*
- (b) A determination made by the Minister under Division 3 in connection with the approval or a concept plan.*

The proponent, Toga Macquarie Developments Pty Ltd, requests that the NSW Department of Planning and Infrastructure, as the consent authority, approve the proposed modifications to the approved Concept Plan Application MP 09\_0195 (as modified).

No provisions of Section 75W of the EP&A Act impose any prohibition or limitations on the proposed modifications. Therefore it is considered that the proposed modifications satisfy the provisions of this Section.

The modifications are described in detail under **Section 4** above.

## 5. Relevant statutory controls

The following statutory controls are applicable to the subject site:

- **State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)**

SEPP 55 requires that an assessment is made of the level of contamination of a site prior to the carrying out of development on land. It is also required that a site be remediated to an appropriate level for proposed future use.

The proposed modifications will not have implications on contamination of the site.

- **State Environmental Planning Policy (Major Development) 2005 (Major Development SEPP)**

The subject site Concept Plan was approved under the former Part 3A of the EP&A Act, in accordance with the Major Development SEPP. This application proposes a variation to the approved Concept Plan MP 09\_0195 with regards to podium height and tree removal. The proposed modifications are considered acceptable under Section 75W (historical version) of the EP&A Act.

- **State Environmental Planning Policy No 65: Design Quality of Residential Flat Buildings (SEPP 65) and the Residential Flat Design Code (RFDC)**

The proposed modifications will not impact on floor to ceiling heights of the proposed development. The RFDC recommends a minimum 2.4 metre floor to ceiling height with 2.7 metres recommended for habitable rooms. The proposed modifications will maintain a floor to ceiling height of 2.7 metres to habitable rooms, with the exception of some minor areas which require bulk heads for the provision of services. The floor to ceiling heights of non-habitable rooms will be at least 2.3 metres, which exceeds the RFDC minimum of 2.25 metres. The proposed modifications will not result in a reduction to amenity, solar access and ventilation to affected units. The proposal will remain generally consistent with SEPP 65 and the accompanying RFDC.

- **Ryde Local Environmental Plan 2010 (Ryde LEP 2010)**

The Ryde LEP 2010 is the primary environmental planning instrument applicable to development within the City of Ryde LGA. The proposed works will not impact on consistency against the Ryde LEP 2010 Mixed use zoning provisions and objectives.

## 6. Conclusion

The proposed modification under Section 75W of the EP&A Act will allow for an increase in the podium height and modifications to tree removal, approved under MP 09\_0195 (as modified). This change will not result in any significant environmental impacts beyond what could be expected by the originally approved development outcome. The raising of the ground floor level of Buildings C and D is necessary to ensure the building aligns appropriately with the approved road levels of LDA 2012/114. It is also considered necessary to remove the additional eight (8) trees for safety and building impacts.

Accordingly, it is recommended that this Section 75W modification application be approved by the NSW Department of Planning and Infrastructure.

Should you have any further queries, please do not hesitate to contact the undersigned on 82528400.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jane Fielding', with a stylized, cursive script.

Jane Fielding  
Senior Planner, Architectus Group Pty Ltd

*Prepared by:*  
Camille Lattouf  
Urban Planner, Architectus Group Pty Ltd

cc. Rob Thomas, Toga Macquarie Developments Pty Ltd, [rthomas@toga.com.au](mailto:rthomas@toga.com.au)  
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