



**Planning &
Infrastructure**

MODIFICATION REQUEST:

120-128 Herring Road, Macquarie Park

***MP09_0195 MOD 3 - Modifications to
Buildings C and D***



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

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

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1. BACKGROUND

1.1 Proposed Development

Toga Developments Pty Ltd (proponent), has lodged a section 75W application to amend an existing concept plan approval (MP09_0195 MOD 3), seeking to adjust the ground floor level of buildings C and D to align with the road levels approved by the Sydney East Region Joint Regional Planning Panel (JRPP) under LDA/2012/0114 and LDA/2012/0578, reduce the size of the basement footprint for buildings C and D, and permit the removal of eight additional trees under the Tree Management Plan.

1.2 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.

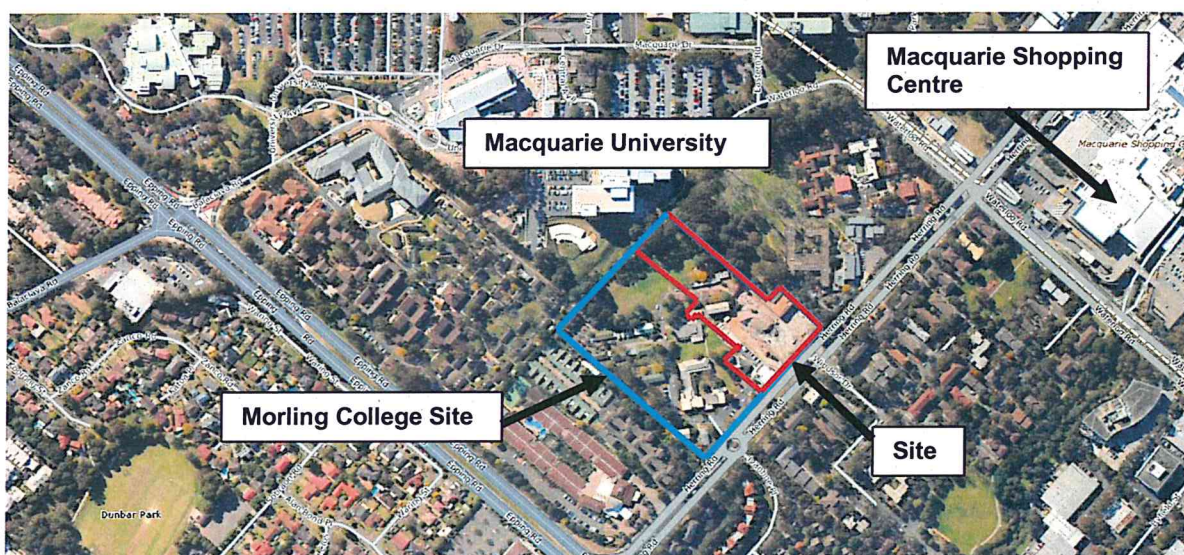


Figure 1: Site Location

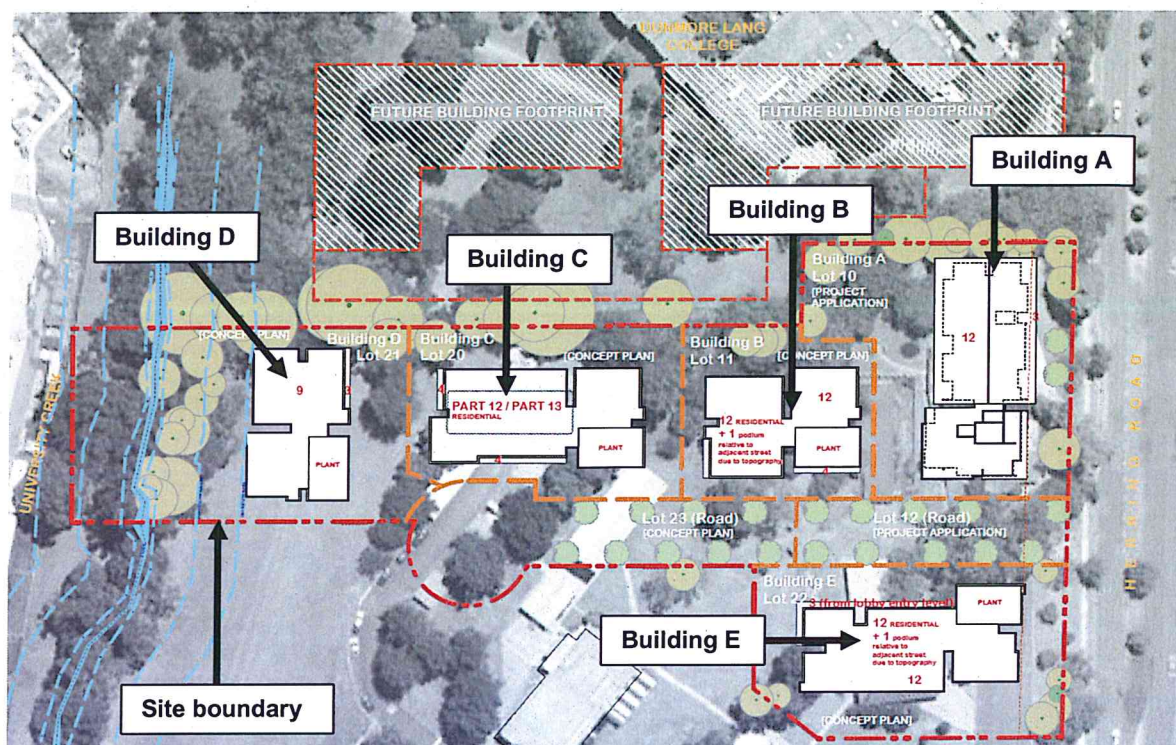


Figure 2: Site Context Plan Demonstrating the Layout of the 5 Buildings and Internal Road

1.2 Approval History

On 20 January 2011, the Deputy Director-General, Development Assessment and Systems Performance approved a concept plan (MP09_0195) for the redevelopment of the site for retail and residential purposes. The concept plan includes building envelopes for one nine-storey and four 12-storey residential flat buildings with basement car parking, associated road works and landscaping. The indicative yield comprised of 557 apartments and a total gross floor area (GFA) of 45,718 sqm.

On 11 July 2011, the Director-General approved MP09_0195 MOD 1 which permitted alterations to the building envelopes and the redistribution of GFA between buildings B, C, D and E.

On 23 March the Acting Director, Metropolitan and Regional Projects South approved MP09_0195 MOD 2, which permitted seven additional apartments and a height increase for building C, the reallocation of GFA from building D to building C, and additional basement car parking.

In addition to the concept plan, the following associated project applications have been approved under Part 3A:

MP09_0217 Staged Subdivision

On 20 January 2011, the Deputy Director-General approved the staged subdivision of the site into seven allotments comprising five residential allotments and 2 road allotments.

On 11 July 2011, the Director-General approved MP09_0217 MOD 1 which permitted minor amendments to the approved plan of subdivision and modifications to condition B1 to ensure the public access easement is registered on title prior to the issue of an Occupation Certificate for building B.

On 13 of March 2012, the Acting Director, Metropolitan and Regional Projects South approved MP09_0217 MOD 2 which permitted a change in the subdivision type from Torrens Title to Community Title.

MP09_0218 Construction of Building A

On 20 January 2011, the Deputy Director-General, Development Assessment and Systems Performance approved MP09_0218 which permitted demolition and excavation works and the construction of a 12-storey residential and retail building (building A). The building has 10,367 sqm of GFA and comprises 123 dwellings and a 96 sqm retail tenancy. The approval also included three levels of basement car parking for 152 cars, and the construction of the south-eastern portion of a public access road, footpath and cycleway off Herring Road.

MP09_0218 has been modified three times to permit:

- Modifications to building A to increase the number of units from 123 to 127 and alter the approved dwelling mix (MOD 1 and MOD 3).
- An increase GFA from 10,357 sqm to 10,450 sqm (MOD 1).
- Minor façade changes (MOD 1).
- Changes to the layout of the basement levels (MOD 1 and 2).
- Modifications to the energy rating of clothes dryers (MOD 3).

To date, two development applications for the construction of building B (LDA/2011/0578) and buildings C and D (LDA/2012/0114) have also been approved under Part 4 of the EP&A Act by the Sydney East Region JRPP.

2. PROPOSED MODIFICATION

2.1 Modification Description

The application seeks approval modify the approved concept plan to:

- Adjust the ground floor level of buildings C and D to align with the pavement levels approved under LDA/2001/0578 and LDA/2012/0114.

- Reduce the roof height of building C from RL 101.890 to RL 101.290.
- Reduce the roof height of building D from RL 89.940 to RL 89.170.
- Modify the extent of the plant areas and increase in plant height to RL 103.600 (building C) and RL 91.400 (building D).
- Reduce the size of the basement footprint for buildings C and D.
- Remove an additional eight trees across the site.
- Revise the Tree Management Plan to reflect the removal of the existing trees.
- Amend the schedule of approved drawings to update the revision numbers of a number of the approved plans.

The proposed modifications are depicted in **Figures 3, 4 and 5** below.

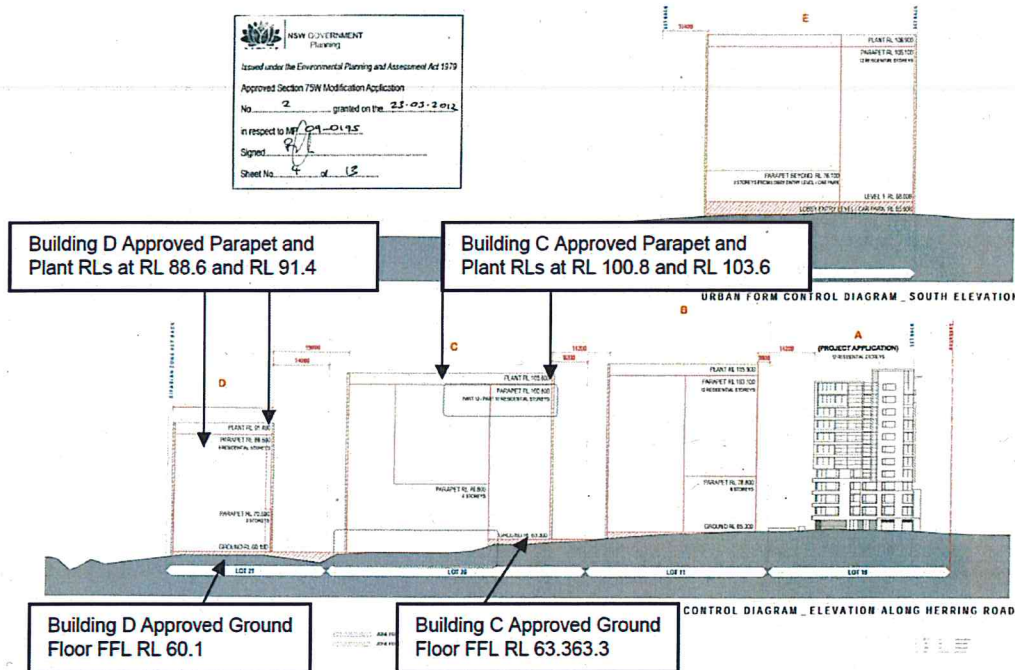


Figure 3: Approved Urban Form Control Diagram (Elevations)

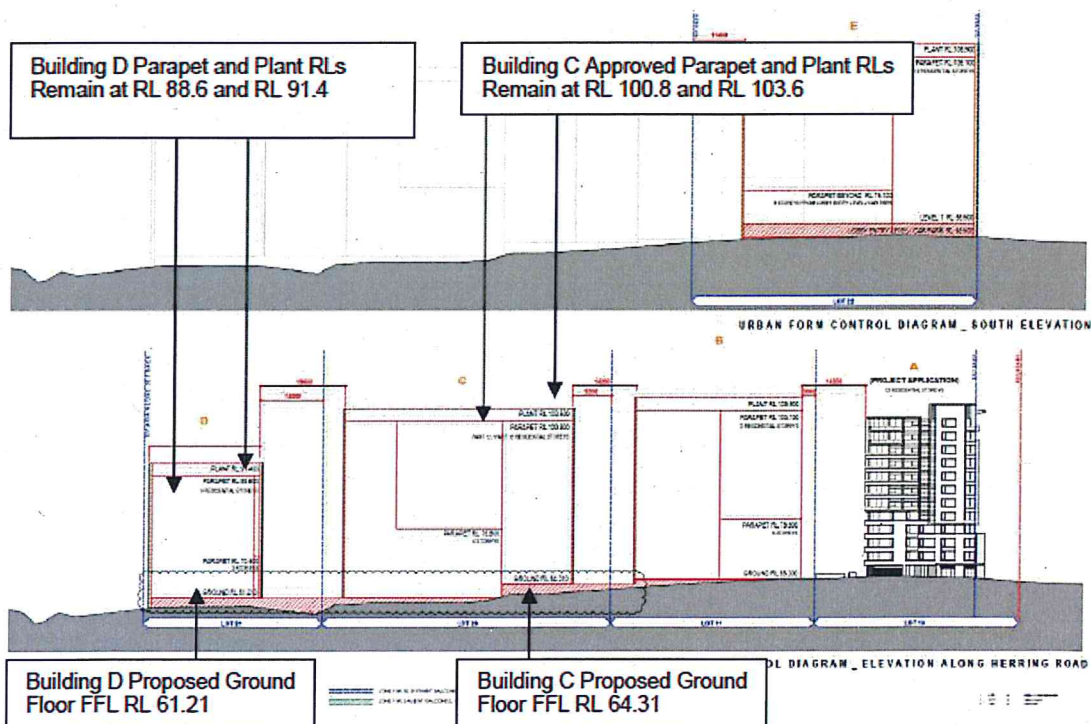
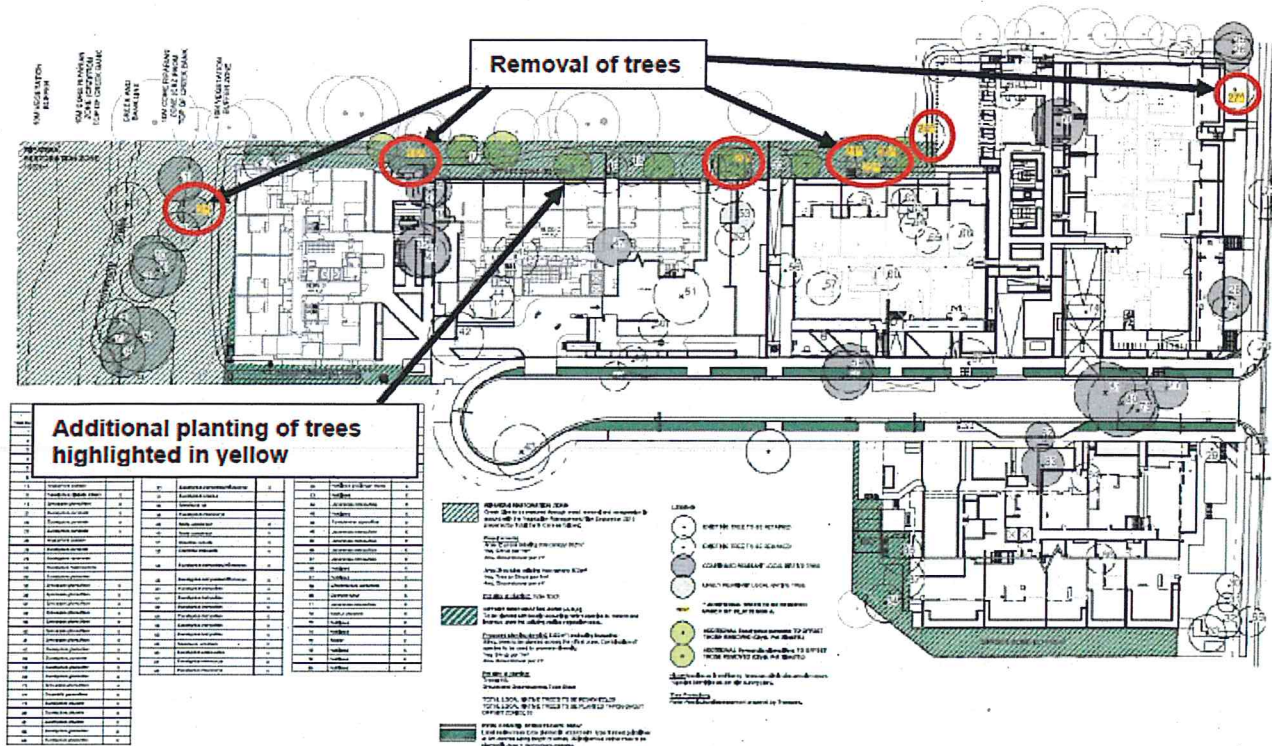


Figure 4: Proposed Urban Form Control Diagram (Elevations)



No public submissions were received and Ryde City Council does not object to the proposed modifications. In addition, no political disclosure statement has been made for this application or for any previous related applications by either the proponent or any person who lodged a submission. Accordingly the application is able to be determined under delegation by the A/Director, Metropolitan and Regional Projects North.

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 the council, Roads and Maritime Services (RMS) and the Office of Environment and Heritage (OEH) of the modification.

4.2 Submissions by public agencies

The council raised no objection to the application, however 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

5.1 Raising Floor Levels

The modification seeks approval to raise the ground level of buildings C and D by 1.01 m to align with the pavement levels adjacent to these buildings as approved by the JRPP under development applications LDA/2012/0114 and LDA/2012/0578. The overall height of both buildings will not exceed the height maxima approved under the concept plan (RL 103.6 for building C and RL 91.4 for building D).

The department supports the proposed increase to the ground floor finished floor levels as it will ensure that the building entries align with levels approved by the JRPP under development application LDA/2012/114 and LDA/2012/0578, and reduce the extent of excavation required to accommodate the basement car park. Furthermore, based on an indicative design submitted by the proponent for the south-west elevations of buildings C and D (see **Figure 5**), the department is satisfied that increasing the finished floor levels will not result in any adverse urban design or visual impacts, subject to the installation of appropriate landscape treatments. The proponent has advised that these treatments will be finalised as part of a future section 96 application for development approvals for LDA/2012/0114 and LDA/2012/0578.

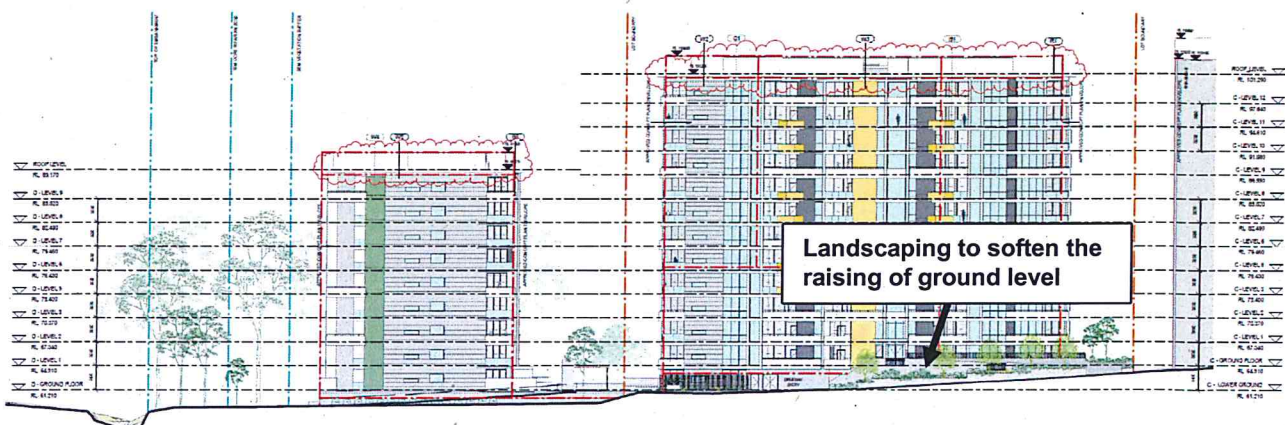


Figure 5: Proposed Building C and D South-West Elevation

5.2 Modifications to the Roof Height and Plant Envelopes and Reduction in the Basement Car Park Envelope

The application seeks to modify drawings DA01-001, DA01-005, DA02-001 and 002, and DA003-001 and 002 to:

- Decrease the roof height of buildings C and D (RL 101.89 for building C to RL 101.29, and RL 89.940 to RL 89.170 for building D).
- Increase the height and shape of the plant for buildings C and D to the maximum height permitted under the concept plan (up to RL 103.600 for building C, and RL 91.400 for building D).
- Reduce the extent of the basement car park envelope for buildings C and D.

The department notes that drawings DA01-001 to DA01-005, DA02-001 and 002, and DA003-001 and 002 are detailed development drawings which were included in the Instrument of Modification for MP 09_0195 MOD 2 for information purposes only. Further, it was always intended that the detailed design of buildings C and D, including the final building heights and envelope for the basement car park, would require formal assessment and approval under Part 4 of the EP&A Act.

The department considers that by approving these drawings there is now a need to modify the approved concept plan each time the proponent seeks to undertake minor modifications to the drawings approved under LDA/2012/114 to rectify any inconsistencies between the development approval and the concept plan.

In order to resolve this issue, the department recommends the deletion of drawings DA01-001, DA01-005, DA02-001 and 002, and DA003-001 and 002 from the concept plan approval. Subject to the deletion of these drawings, the modifications outlined above are no longer required on the basis that the proposed modifications do not exceed the building envelope height maxima for buildings C and D (RL 103.600 for building C, and RL 91.400 for building D), as specified in the approved concept plan.

5.3 Tree Removal

The application seeks approval to include eight additional trees for removal in the approved tree Management Plan, six of which are local natives (see **Figure 6**). An arboricultural assessment was prepared by Urban Forestry Australia dated 10 August 2012, to support the removal of the additional trees. This assessment concluded that the subject trees should be removed for either safety reasons, or as a result of decline that is likely to occur due to development impacts.

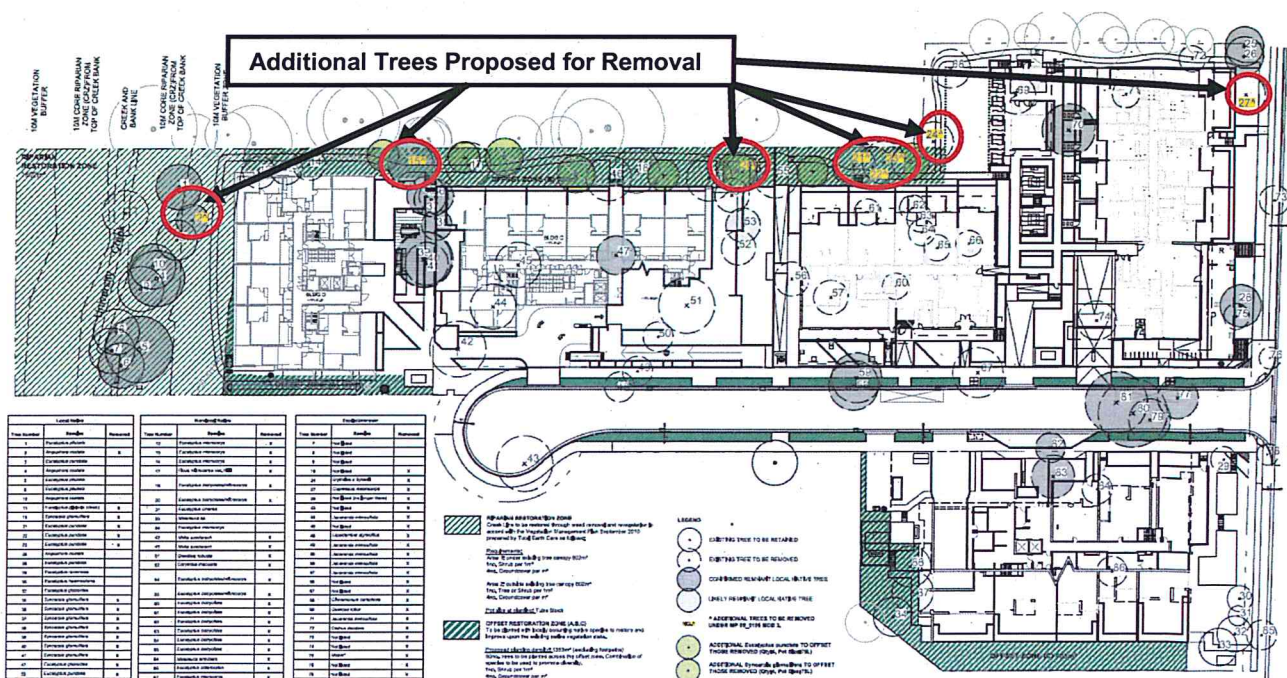


Figure 6: Proposed Tree Management Plan

The department has reviewed the proponent's Arboricultural assessment and agrees that it is appropriate to remove the additional trees 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. Accordingly, the department recommends that condition A2 be amended to reflect the revisions to the approved Tree Management Plan.

The department notes that the council raised concern with the removal of additional trees on site, particularly the three local native species which are identified within the *NSW Scientific Committee Final Determination for the Sydney Turpentine-Ironbark Forest Endangered Ecological Community* (STIF EEC) as being composite species of the EEC. In this regard, the council requested that the proponent provide a revised seven part test to identify the ecological impacts of removing the trees which may form part of a SITF EEC.

The department has reviewed the council's comments and has concluded that a revised seven part test is not necessary for the following reasons:

- The proponent's Flora and Fauna Bridging Report dated 7 September 2010, which was submitted to support the original concept plan application, concluded that the vegetation community on the site does not meet the guidelines for classification as a STIF EEC.
- Whilst the department did not endorse the findings of the proponent's Flora and Fauna Bridging Report in its assessment of the original concept plan, it concluded that the only area within the site that may have significant ecological value is located adjacent to building D. In order to ensure this area was not adversely impacted by new development, the department recommended the imposition of a condition requiring the proponent to consider the impacts on vegetation prior to lodging a development application for building D.
- Following approval of the concept plan, the Sydney Region East Joint Regional Planning Panel approved the construction of buildings C and D under LDA/2012/0114. In this regard, the JRPP concluded that the construction and use of buildings C and D would not have any adverse impacts on the STIF EEC, and as such a species impact statement was not required.
- Whilst the department recognises that the application seeks approval to revise the Tree Management Plan to permit the removal of a tree adjacent to building D (tree No. 2), which is a composite species of the STIF EEC (*Angophora costate*), the department considers removal of this tree is warranted on the basis that the tree is in poor health.

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 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 A/Director, Metropolitan and Regional Projects North:

- Consider** the findings and recommendations of this report.
- Approve** the modifications under delegated authority, under Section 75W of the Environmental Planning and Assessment Act 1979.
- Sign** the attached instrument of Modification for MP09_0195 (MOD 3).

Prepared by:


1/11/12
Senior Planner
Metropolitan & Regional Projects North
NSW Government
Department of Planning & Infrastructure

Approved by:


1/11/12
A/Director
Metropolitan and Regional Projects North

APPENDIX A MODIFICATION REQUEST

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

APPENDIX B SUBMISSIONS

City of Ryde submission.

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
