



MODIFICATION REQUEST:
Residential and Child Care Centre
Development
14-18 Boondah Road Warriewood
MP09_0162 MOD 3



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

December 2012

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1. BACKGROUND

1.1 The Site

The subject site, 14-18 Boondah Road, Warriewood, is located in the Warriewood Valley Release Area within the Pittwater Local Government Area (LGA). The site is irregular in shape, has an area of 8.118 hectares and frontages of 293 metres to Boondah Road and 273 metres to Macpherson Street. Vehicular access is available from both road frontages. The land slopes approximately 2.5 metres to the rear (south) towards the wetlands.

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 (MP09_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 (MP10_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 seven residential apartment buildings with associated pools and gymnasium;
- childcare centre;
- external road works, internal public access roads, pedestrian and cycle way; and
- ecological rehabilitation and landscaping works.

On 15 December 2011, the PAC approved a modification to the Concept Plan (MP09_0162 MOD 1) to delete the internal road, re-align the pedestrian/bicycle path routes and amend the requirements of accessible units and the provision of car parking.

On 6 November 2012, the PAC approved a modification to the Concept Plan (MP09_0162 MOD 2) to clarify the extent of reconstruction works to Boondah Road and revise a Statement of Commitment regarding the payment of developer contributions for Stage 2 of the development.

In addition to the modifications to the Concept Plan, both the Department and the PAC have approved modifications to the Stage 1 project Approval (MP10_0177) on 12 occasions.

2. PROPOSED MODIFICATION

The modification application originally sought to modify the Concept Plan by making minor adjustments to footprints of Buildings within Stage 2 (H to P) including a 1 metre articulation zone, reconfiguring the internal road, and the introduction of 19 at-grade car parking spaces.

In response to Council's concerns and the Department's request for further information, the proponent revised and clarified the application. The proposal now seeks approval to modify the Concept Plan by:

- making minor adjustments to the footprints of Buildings H to P;
- amending the private internal road by adding a loading facility and 19 at-grade visitor car parking spaces;
- adding a building to store garbage bins located between the children's playground and the proposed loading facility; and
- modifying the vehicle entrances to basement levels by relocating an existing entry point and adding two new entrances.

As a result of the modifications listed above, approval is sought to amend Condition 2 of Schedule 2 (Development in Accordance with the Plans and Documentation) to refer to seven revised architectural plans.

3. STATUTORY CONTEXT

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 an 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 to amend a condition of the Concept Plan 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.

Council does not object to the proposal. No donations have been disclosed in relation to this application and no submissions were received by the public.

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

4. CONSULTATION AND SUBMISSIONS

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 for comment.

4.1 Pittwater Council

On 1 November 2012, Pittwater Council raised a number of concerns in response to the original proposal including:

- the relocation of buildings to avoid Sydney Water infrastructure may result in a reconfiguration of dwellings and increased parking requirements;
- the reduction in deep soil planting areas;
- the building articulation zone being used as a mechanism to increase floor space; and
- the lack of a vehicular turning facility at the end of the dead end road.

On 14 November 2012, the proponent provided a response to Council's concerns listed above by:

- deleting the building articulation zone;
- providing a deep soil plan indicating a deep soil planting area of 53.86%;
- noting that the dead end road is to be used as a loading bay; and
- providing further explanation and justification for the changes to the building footprints.

On 23 November 2012, Council provided a further submission in response to the proponent's additional information and revisions. This submission commented on the matter of the proposed loading area at the end of the dead end road, noting that a turning facility would not be required if:

- the loading facility is signposted as a loading zone; and
- access ramps are provided in kerbs to link with the path systems of adjacent dwellings.

On 29 November 2012, the proponent submitted a revised landscape plan introducing a new garbage storage building adjacent to the proposed loading facility. On 3 December 2012, amended Concept Plan drawings were submitted showing the new garbage storage building. These revised plans were subsequently referred to Council for comment.

On 5 December 2012, Council provided a further submission in response to the revised Concept Plan, deep soil and landscape plans noting that no objection is raised with regard to the proposed additional building subject to:

- the Department being satisfied that the additional building does not decrease the deep soil planting area below 50% of the developable site area; and
- there is sufficient turning area adjoining the additional building for garbage vehicles such that circulation conflicts with proposed entrances to basement parking levels and adjoining parking areas do not arise.

The provision of deep soil planting and vehicle circulation within the private internal road is discussed in detail under **Section 5** of this report.

4.2 Public Submissions

No public submissions were received for the development.

5. ASSESSMENT

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

- building footprints;
- deep soil planting; and
- loading zone and vehicle manoeuvrability

5.1 Building footprints

The proposal seeks to make minor adjustments to the footprints of buildings associated with Stage 2 of the development, which are identified as Buildings H to P. The proponent noted in the application that the amendments to the footprints are required to avoid conflict with the Sydney Water main, improve the articulation of buildings and to provide better separation distances between Buildings O and P as sought by the Residential Flat Design Code.

Figure 2 shows the location of the Sydney Water main in relation to the approved and proposed building footprints for Stage 2 of the development. In this regard, the Department makes the following observations:

- it is apparent that the approved footprint of Building N conflicts with the easement for the Sydney Water main;
- setbacks from streets (Macpherson Street and Boondah Road) remain unchanged from the current approval at 6.5m; and
- the impact resulting from an increase in combined footprint area of the buildings is negligible.

The Department also notes the requirements in the Concept Plan that provide a limit to the intensity of the overall development. These requirements include:

- a maximum permitted dwelling yield of 60 dwellings per hectare; and
- a minimum provision of 50% of the developable land on the site as deep soil area.

The subject proposal does not seek to alter these requirements. Based on the minor nature of the adjustments of the footprints and the maintenance of existing requirements of the Concept Plan relating to dwelling yield and deep soil planting, the Department raises no issue with the proposed adjustments to the building footprints.

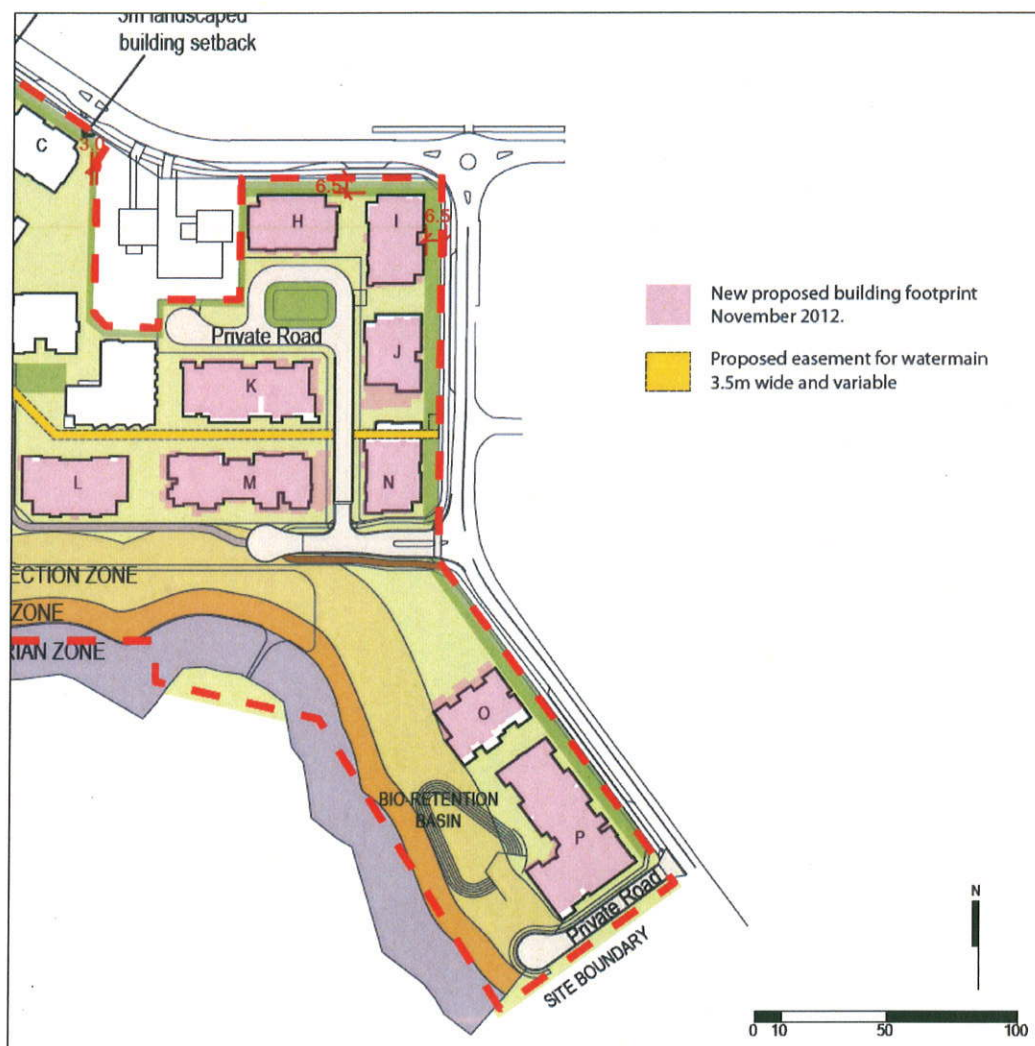


Figure 2: Proposed building footprints superimposed over the approved footprints of the Stage 2 development

5.2 Deep soil planting

In the original assessment of the Concept Plan, deep soil planting was determined in consideration of Council's requirement, which required a minimum provision of 50% of the developable land on the site being deep soil planting area. The currently approved amount of deep soil planting area is 56.13% of the developable land on the site (approved under MOD 1 of the Concept Plan).

Council's comment

Council raises no objection to the proposal subject to the deep soil planting area not falling below 50%. Council noted this requirement is in response to the addition of a new garbage storage building on the site. The new building is located between the children's playground and the proposed loading zone and is identified in **Figure 3**.

Department's consideration

While the proposal will result in a reduction in the provision of deep soil planting area (reduced from 56.13% to 53.86%), the proposed provision is still above the minimum requirement of 50%. The proposed figure is verified in a revised plan identifying the provision of deep soil planting areas.

As the proposal retains a deep soil planting area above Council's minimum requirement of 50%, the Department raises no issue to this aspect of the proposal.

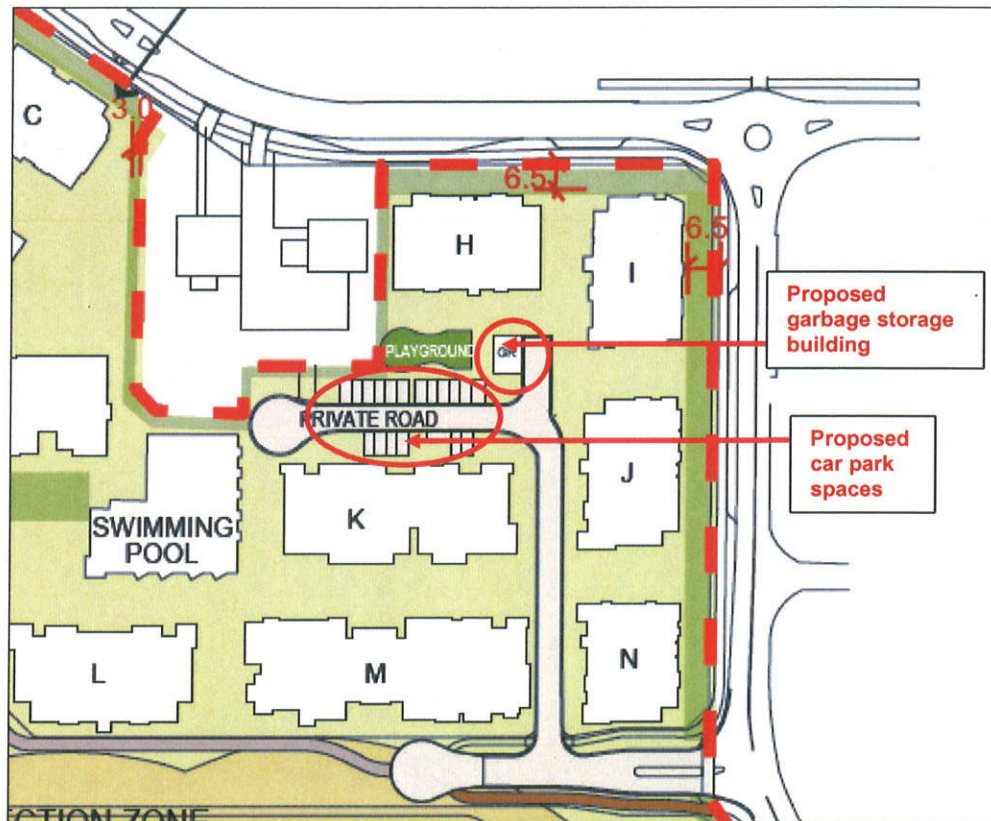


Figure 3: Proposed garbage storage building and at-grade car park spaces

5.3 Loading zone and vehicle manoeuvrability

The proposal seeks to modify the private internal road, which provides vehicular access to basement levels of Stage 2 of the development. The modification proposes to delete the circular roadway surrounding the children's playground, resulting in the creation of a dead end road to a portion of the road adjoining Buildings H and I. The dead end road is proposed to be used as loading zone (primarily for garbage vehicles) and is identified in **Figure 4**.

Council's comments

Council raises no objection to the proposal subject to:

- the loading facility being signposted as a loading zone; and
- sufficient turning area being provided adjacent to the garbage storage building for garbage vehicles such that circulation conflicts do not arise with proposed entrances to basement car parking levels or adjoining parking areas.

Department's consideration

The Department notes Council's point in relation to the need for sufficient turning area for the loading zone and agrees that any vehicle manoeuvring associated with this area should not conflict with the entrances to the basement parking levels and the at grade visitor car parking.

The submitted plans indicate that the nearest basement entry/exit point is located over approximately 40 metres from the loading area. As such, the Department is satisfied that there will be no circulation conflict between the use of this area and the basement entry/exit points.

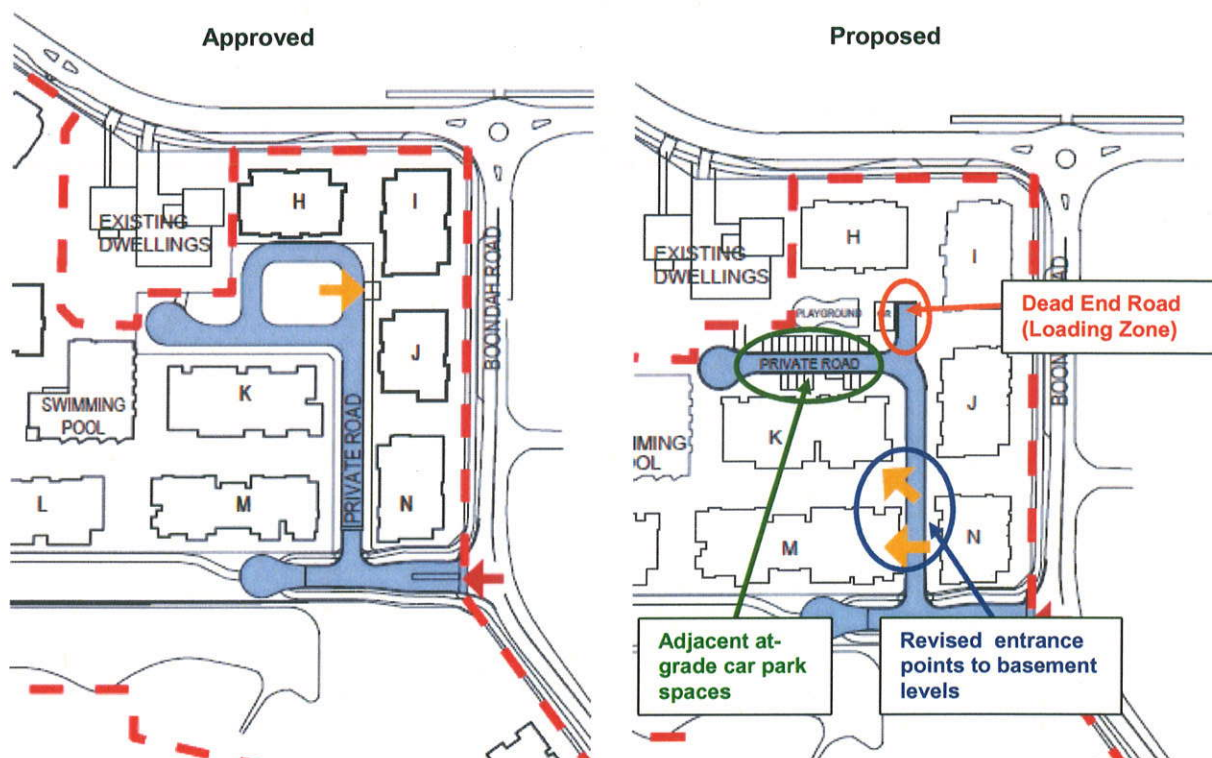


Figure 4: Approved and proposed internal road design

The submitted plans indicate that the nearest at-grade visitor car parking spaces are located 10-15 metres to the west of the loading area. The proponent has submitted swept path diagrams demonstrating that trucks will be able to enter and exit the loading area with a single reversing movement into the loading area without entering the parking area. The Department notes that whilst this is nearby the at-grade visitor parking area, no service vehicles would need to use the parking area to access the loading area. As such the Department is satisfied that there will be no conflicts with vehicles also manoeuvring into and out of the at-grade car parking spaces.

The Department also notes that Council may require further details for the design of this area including any kerb design and signposting requirements as part of its assessment of any Development Application for Stage 2 works.

Noting the above the department considers this aspect of the proposed modification to be satisfactory.

6. CONCLUSION

The Department has assessed the proponent's request to modify the Concept Plan and has considered the various submissions.

The proposal relates to the modification of built form associated with Stage 2 of the development. The modifications include adjustments to building footprints, the addition of a new building to store garbage bins and modifications to a private internal road to include 19 car parking spaces and a designated loading zone.

Council originally raised a number of concerns in relation to the proposed modification. The proponent has however generally resolved these concerns by amending the proposal or by providing additional clarification and justification. The Department accepts Council's position in relation to the maintenance of the overall deep soil area (not being less than 50%) and the safe operation of the proposed loading area.

The Department's assessment notes that the 50% deep soil requirement will be maintained and the loading area is able to operate without vehicle conflicts with basement parking access points and nearby at grade parking areas. The Department also notes that Council may review the detailed design of the loading area as part of any Development Application for Stage 2 works.

The proposed modifications fall within the scope of section 75W of the Act and do not alter the original assessment as to the site's suitability for this development. The Department raises no issue with the modifications sought under this proposal and recommends its approval subject to the recommended modifying instrument as set out in **Appendix C**.

7. RECOMMENDATION

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

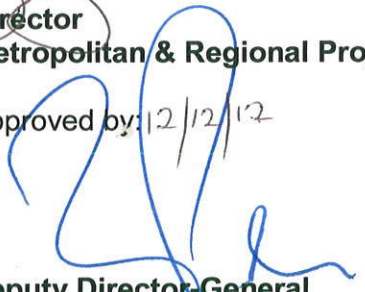
- (A) **Consider** the recommendations of this report;
- (B) **Approve** the modifications, subject to conditions; under Section 75W of the *Environmental Planning and Assessment Act, 1979*, and
- (C) **Sign** the attached Instrument of Modification (**Appendix C**).

Endorsed by:


**Director
Metropolitan & Regional Projects South**


**Executive Director
Major Projects Assessment**

Approved by: 12/12/12


**Deputy Director-General
Development Assessment & Systems Performance**

14/1/13

17.12.12

APPENDIX A MODIFICATION REQUEST

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5615

APPENDIX B SUBMISSIONS

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5615

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
