



MODIFICATION REQUEST:

Child Care Centre Modification

MP 09_0162 MOD 4 (Concept Plan)

MP 10_0177 MOD 13 (Project Application)

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

September 2013

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Published September 2013
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

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EXECUTIVE SUMMARY

Karimbla Constructions Services (NSW) (the proponent) proposes to modify the Concept Plan and Stage 1 Project Approval for the construction of a residential and childcare development at 14-18 Boondah Road, Warriewood pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The subject site, 14-18 Boondah Road, Warriewood, is located in the Warriewood Valley Release Area within the Pittwater Local Government Area (LGA).

The application seeks to amend the approved Concept Plan and Stage 1 Project to enable an increase in childcare places on the site from 40 to 90. The proponent sought to achieve this increase through increasing the size of the site that accommodates the centre, enlarging the building from one storey to two storeys and providing an increase in car parking spaces.

The modification application was publicly exhibited and a submission was received from Pittwater Council objecting to the proposal. Council's objections relate to the inclusion of a car parking area over an overland flow path; the impact of the proposal on applicable contributions and works in kind; flooding impacts and the impact on the streetscape and residential amenity.

There were also a total of 44 public submissions objecting to the proposal (36 relating to the Concept Plan modification and 8 relating to the Stage 1 Project modification). The key issues raised in the public submissions include the traffic impact as a result of the enlarged childcare centre; the noise impacts upon residential amenity and concerns that staff would park in the internal street.

The department has assessed the application and has considered the submissions and the proponent's response to submissions (see Section 5). The critical assessment issues relate to the proposed built form, the flooding impacts and risks, Section 94 contributions and offsets, traffic impacts and access arrangements and noise impacts.

The department is of the view that the site can reasonably accommodate the proposed facility, including the proposed large building and additional parking. Further, the traffic and noise impacts as well as the flood risks associated with the intensification have been demonstrated to be acceptable.

The proposal to increase the size of the childcare centre on the site is considered to be appropriate in the context of the site. The department has considered the key issues and considers that subject to appropriate conditions to manage / mitigate the noise and traffic impacts and flood risks, the proposed 90 place childcare centre is appropriate.

A critical aspect of the proposal is the parking area sought to be built above the overland flow path that was to be dedicated to Council. The proponent has demonstrated to the department's satisfaction that this design is acceptable having regard to the function of the overland flow path. The department has recommended conditions to ensure this function will be maintained.

The department has recommended that the portion of the site containing the enlarged car parking area over the overland flow path be excluded from the land to be dedicated to Council and the Section 94 offsets amended accordingly. Subject to the recommendations provided in this report and subsequent conditions, the department recommends that the proposed modification be approved.

The modification applications are being referred to the Planning Assessment Commission for determination as Council objects to the proposal and there were more than 25 public submissions in the nature of objections being received.

1. BACKGROUND

The purpose of this report is to assess a request to modify the approved Concept Plan Application (MP 09_0162) and Project Application for Stage 1 (MP 10_0177) for construction of a residential and childcare development at 14-18 Boondah Road, Warriewood pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The application seeks to amend the approved Concept Plan and Stage 1 Project to enable an increase in childcare places on the site from 40 to 90. The proponent seeks to achieve this increase through increasing the size of the site that accommodates the centre, enlarging the building from one storey to two storeys and providing an increase in car parking spaces.

1.1. Site Description

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**.

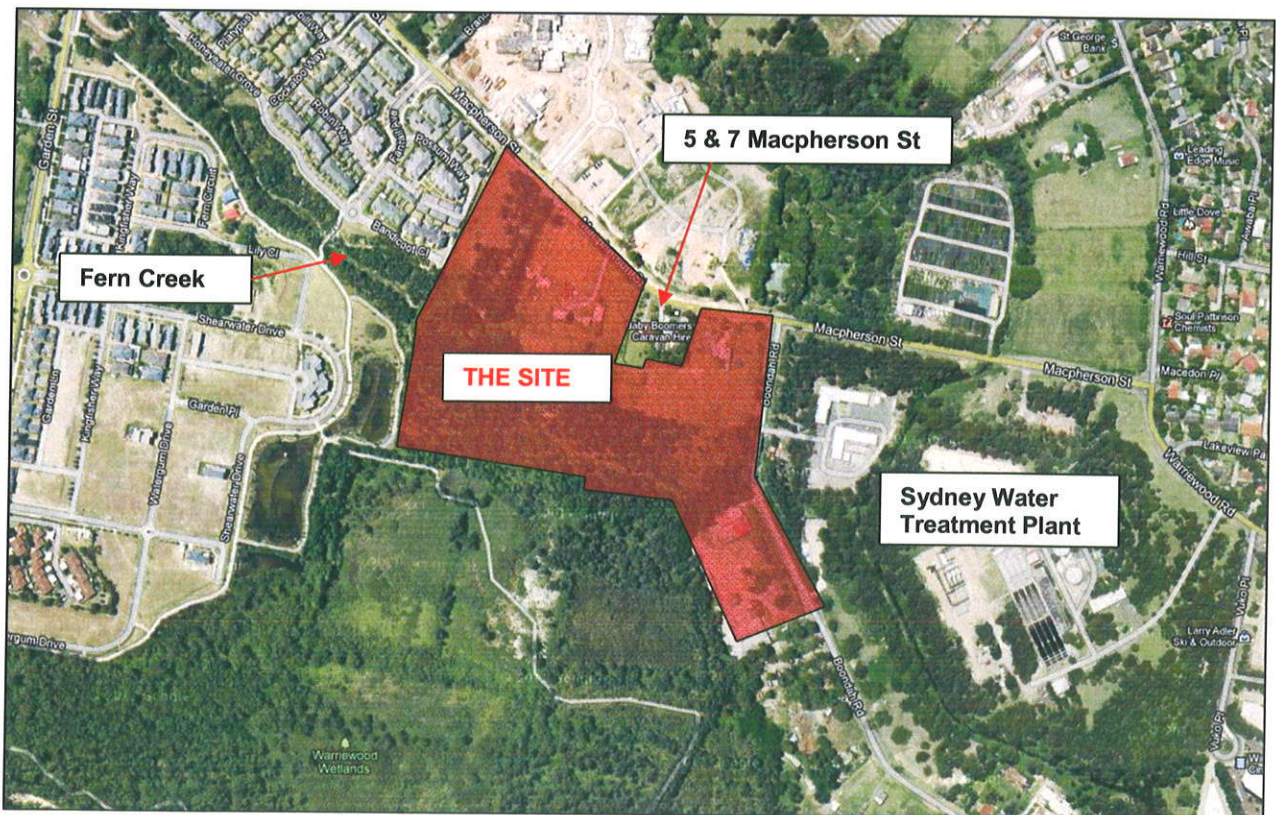


Figure 1: The site

1.2. Previous Approvals

On 18 January 2011, the Planning Assessment Commission (PAC) approved a Concept Plan (MP 09_0162) for a multi-unit housing development and childcare 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 residential and childcare development comprising:

- demolition of the existing buildings and structures on site and tree removal;
- excavation, earthworks and flood mitigation works;
- construction of 7 residential apartments buildings with associated pools, and gymnasium;
- basement parking for 471 vehicles;
- a single storey childcare centre (to cater for a maximum of 40 children);
- external road works, internal public access roads, pedestrian and cycle way; and
- an Asset Protection Zone (APZ), environmental buffer areas and ecological rehabilitation and landscaping works.

A condition was imposed on this approval that requires a future Development Application (DA) approval for the childcare centre use.

On 29 August 2012, Pittwater Council approved the fitout and use of the childcare centre in accordance with the approved Concept Plan and Stage 1 Project. The DA provides approval for a childcare centre with a maximum of 32 children and parking for 8 vehicles.

1.3. Previous Modifications

A number of modification applications have been determined for the Concept Plan and Project Application. These applications are summarised in **Appendix A**.

2. PROPOSED MODIFICATION

2.1. Modification Description

The application, as exhibited, sought modifications to the approved Concept Plan (MP 09_0162) and Stage 1 Project (MP 10_0177) as follows:

- modification to architectural plans approved in the Concept Plan and Stage 1 Project; and
- modification to conditions of the Stage 1 Project relating to the description of the childcare centre and maximum number of children permitted within the centre.

The modification principally sought to increase the size of the approved childcare centre on the site through the provision of an additional storey and increased outdoor play and car parking area to cater for an increased number of children to be provided from 32 to 100 places.

The car parking area is proposed to be built over an overland flow path, which formed part of the site to be dedicated to Council as public recreation and open space land.

The proponent has sought modify the childcare centre to improve the commercial viability of the centre for potential purchasers of the land. A larger centre was also considered to benefit the community by providing additional childcare places for the area.

2.2. Preferred Project Report

Following the exhibition period and subsequent submission of a Preferred Project Report (amended further on 9 and 13 August 2013), the proponent amended the proposal to include the following:

Modifications to the Concept Plan Approval

The proposed modification to the concept approval seeks the following:

- an enlarged childcare centre through the provision of an additional storey (previous floor area of 270m², proposed 694.5m²);
- an enlarged car parking area (catering for 25 car parking spaces) located over an area to be dedicated to Council (**Figures 2 and 3** provide a comparison between the approved and proposed Concept Plan layout relating to the location of the childcare centre); and
- retention of existing dedication of land to Pittwater Council.

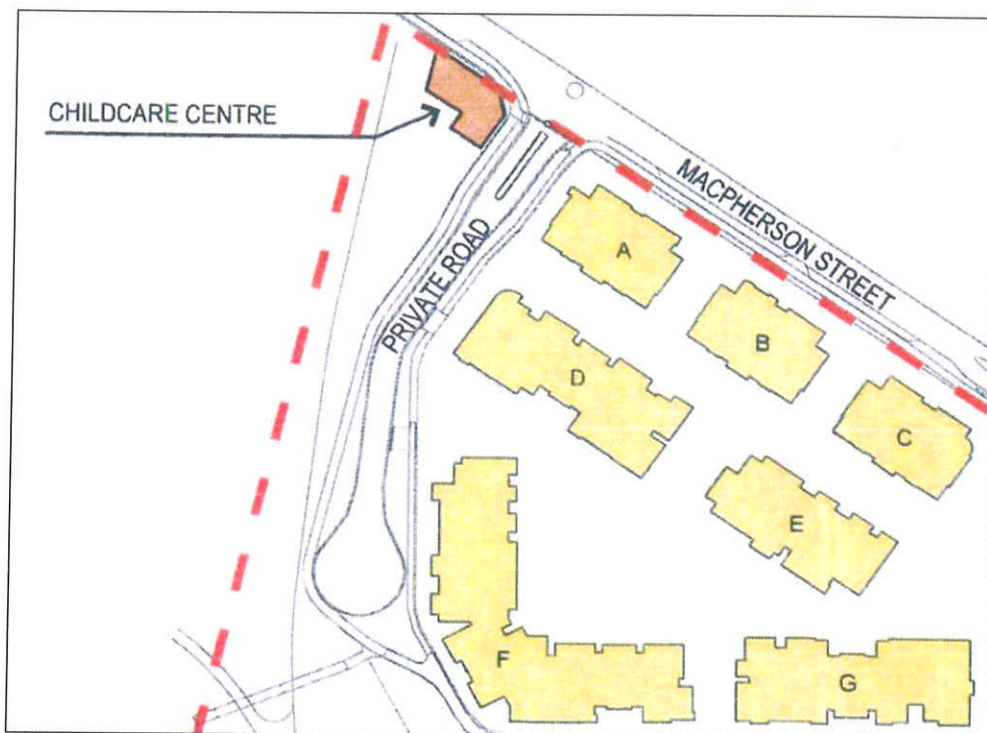


Figure 2: Approved Concept Plan land use plan illustrating the childcare centre location

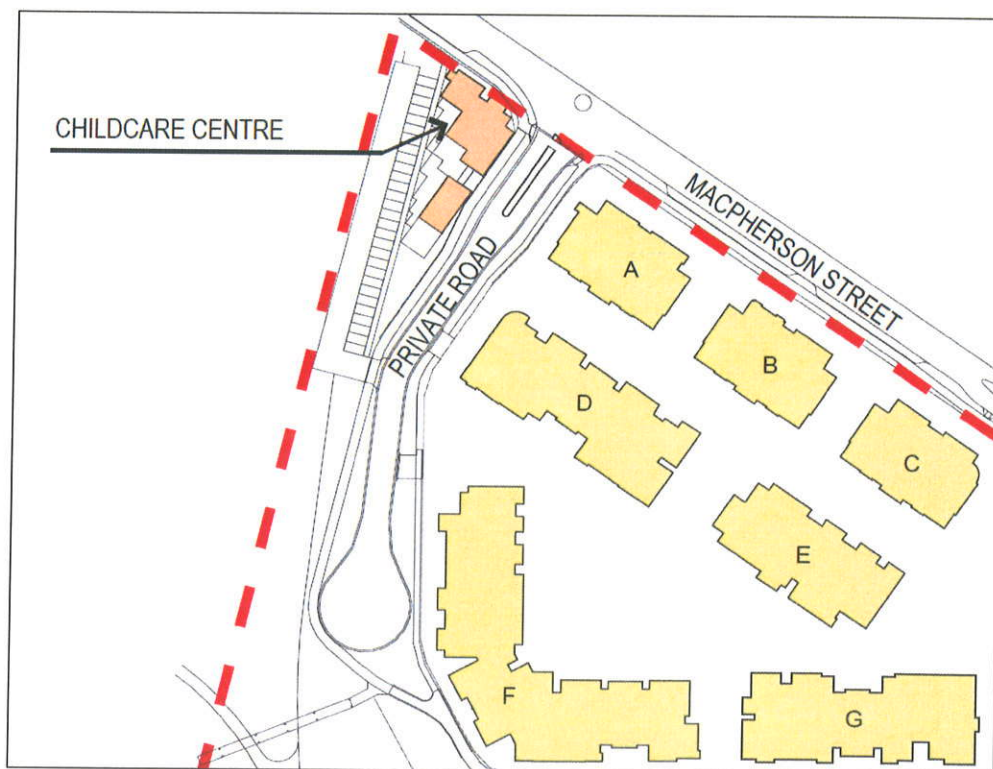


Figure 3: Proposed Concept Plan land use plan illustrating the enlarged childcare centre location
(Source: Proponent's EA)

Modifications to the Stage 1 Project Approval

The proposed modification to the project approval seeks approval for the construction (**Figure 4**) and operation of a childcare centre (rather than previously requiring the submission of a separate application to Pittwater Council) comprising of:

- maximum of 90 children to be provided within the childcare centre;

- conditions relating to the operation of the childcare centre (including hours of operation between 6.00am to 8.00pm, Monday to Friday, with the outdoor play areas not being used before 8.00am and after 6.00pm); and
- 25 car parking spaces and a turning area within the boundaries of the site.

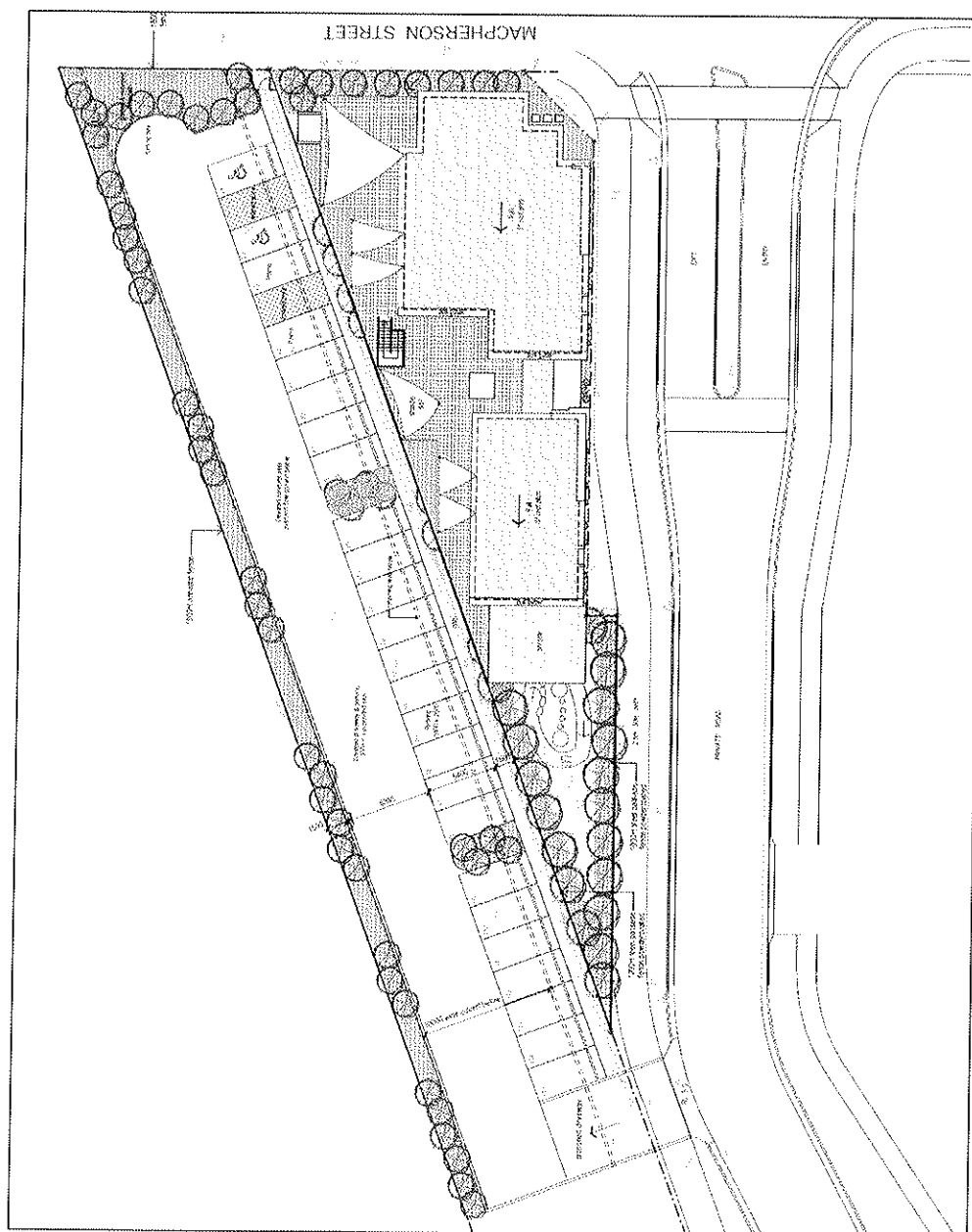


Figure 4: Proposed childcare centre and associated parking area (Source: Proponent's additional information)

Table 1 below indicates the key components of the approved versus the modified proposal.

	Concept/Project Application	Council DA Approval	Exhibited 75W Modification	Current PPR proposal
Childcare Places	40	32	100	90
Gross Floor Area	270 m ²	270 m ²	778.2 m ²	694.5 m ²
Car parking spaces	8	8	25	25
No. of storeys	1	1	2	2

Table 1 Major Components of the Approved versus the Proposed Modified Development

3. STATUTORY CONTEXT

3.1. Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the EP&A Act, Section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

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

3.2. Modification of a 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 a variation to the Concept Plan and Project Application which requires detailed assessment, therefore approval to modify the applications are required.

3.3. Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the Director-General may notify the proponent of Director-General's Environmental Assessment Requirements (DGRs) with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

No additional environmental assessment requirements were issued with respect to the proposed modifications, as sufficient information was 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 Part 3A applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority and:

- the relevant local council made an objection; or
- a political donation disclosure statement has been made; or
- there are more than 25 public submissions in the nature of objections.

Pittwater Council has made a submission in the nature of an objection and more than 25 public submissions were received in the nature of objections. Therefore, the modification request is referred to the PAC for determination under delegated authority.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under Section 75W of the EP&A Act, a request for a modification of an approval does not require public exhibition, however, under section 75X(2)(f) of the EP&A Act, the Director-General is required to make modification requests publicly available.

In this instance, the modification application was publicly exhibited from Wednesday 3 April 2013 until Friday 17 May 2013 (a period of 45 days) and was exhibited on the department's website; at the Department of Planning and Infrastructure's Information Centre and at Pittwater Council. The department also advertised the public exhibition in the Sydney Morning Herald, Daily Telegraph and The Manly Daily on Wednesday 3 April 2013 and notified landholders and relevant State and local government authorities in writing.

The department received 45 submissions during the exhibition of the modification application, including 1 submission from public authorities (Pittwater Council) and 36 submissions from the general public (which included 25 proforma letters of objection) and community groups to the modification to the Concept Plan and a further 8 submissions to the modification of the Project Application.

Following the submission of the Preferred Project Report (PPR) from the proponent on 24 June 2013, the department received submissions from the NSW Rural Fire Service and Council which maintained its objection to the proposal. No public submissions were received to the PPR.

A summary of the issues raised in submissions is provided below.

4.2 Public Authority Submissions

Two submissions were received from public authorities, which are discussed below:

Pittwater Council

On 17 May 2013, Pittwater Council raised a number of objections to the application, particularly in regards to the intensification of the childcare centre and the associated impacts this increase may have on the surrounding locality.

Council also raised concerns with:

- the proposed amendment to the car park design and the location of the car park over the proposed overland flow path;
- the contribution payable to Council as a result of the encroachment of the childcare centre car park on what was to be open space to be dedicated to Council;
- that a review be undertaken regarding the overall contribution amount and the suitability of the land to be dedicated to Council;
- the flooding impacts from the partial covering of the overland flow path by the car park and associated flooding evacuation measures not being addressed; and
- streetscape and residential amenity impacts of the proposal.

On 24 June 2013, the proponent submitted a response to Council's comments and those raised by the public. In addition, the proponent provided further justification for the proposal through the provision of an Acoustic Report (demonstrating compliance with noise requirements); an additional traffic impact assessment; commentary on the location of the car park area over the overland flow path swale; and a review of the proposal against the requirements of the NSW Rural Fire Service.

On 5 July and 16 July 2013, the proponent provided further additional information including a modified Acoustic Report (modified to ensure the report was based on current plans and proposed hours of operation) and demand analysis in support of the proposed increase in childcare numbers.

On 26 July 2013, Council provided a further submission having regard to the proponent's preferred project report and additional information. Council maintains its objection to the intensification of the childcare centre and states that the proponent has not resolved a number of issues that Council previously raised, including:

- the proposed construction of a car park area over an overland flow path and what implications this has on the applicable Section 94 offsets and quantum of land dedication;
- the reduction of deep soil planting as a result of the proposed car parking area;
- the traffic and congestion with the increased usage of the childcare centre and associated car park design;
- residential amenity and streetscape impacts as a result of the proposed increase in size of the childcare centre; and
- the potential increase in risk to life when considered in association with the Probable Maximum Flood levels on the site.

On 9 August and 13 August 2013, following further concerns raised by the department, the proponent amended the built form of the proposed childcare centre through the inclusion of a 2 metre setback to Macpherson Street. As a consequence of introducing this setback, the overall GFA for the building has reduced which has resulted in a reduction to the number of childcare places from 100 to 90 (the final design being considered is as shown in **Figures 4, 6 and 8**).

The department has provided detailed consideration of the issues raised by Council in **Section 5** of this report.

NSW Rural Fire Service

On 23 July 2013, the NSW RFS advised that they raise no objections to the proposal, subject to compliance with the previously issues terms of approval and proposed childcare centre plans.

4.3 Public Submissions

A total of 44 submissions were received from the public in relation to the modifications of the Concept Plan and Stage 1 Project (36 relating to the Concept Plan modification and 8 relating to the Stage 1 Project modification). All of the submissions, except for one, object to the proposal.

Three key issues raised within the objections are listed below:

- traffic impact as a result of the childcare centre car park entrance being located opposite the entrance to the basement car parking area catering for 220 residential units;
- noise impacts upon residential amenity as a result of increasing the childcare centre numbers from 32 to 100 children; and
- concerns that the staff for the childcare centre will park in the internal streets of the unit precinct.

Other concerns raised in the public submissions included:

- increased safety risk to pedestrians as a result of additional vehicle movements;
- impacts upon the streetscape as a result of building on the boundary and providing no landscaping to provide screening of the building (note: the building design was subsequently amended to provide a 2 metre setback and landscaping to Macpherson Street);
- additional risks not fully assessed in terms of flooding impacts;
- reduction in open space as a result of the proposed car parking area;
- existing roundabout off Macpherson Street into the site being upgraded to a raised construction and not painted lines on the road;
- potential overshadowing onto adjoining properties; and
- an assertion that there is no demand for the additional childcare places.

The department has considered the issues raised in submissions in its assessment of the application.

5. CONSIDERATION OF PROPOSED MODIFICATIONS

The department considers the key issues for the proposed modification to be the following:

- built form;
- flooding impacts and risk;
- Section 94 contributions and offsets;
- traffic impacts and access arrangements; and
- noise impacts.

5.1 Built form

The approved Concept Plan permits the use of the site for a childcare centre (**Figure 2**). The Stage 1 Project was approved with indicative plans for the construction of a single storey childcare centre in the northwest corner of the site, with a nil setback to the Macpherson Street frontage (**Figure 5**). Condition A6(1) of the Stage 1 Project required the submission of a future development application to Pittwater Council for the use of the childcare centre. The approval limited the number of places to a maximum of 40 children unless otherwise approved by Council.

Council has since approved the operation of a 32 place childcare centre at this site.

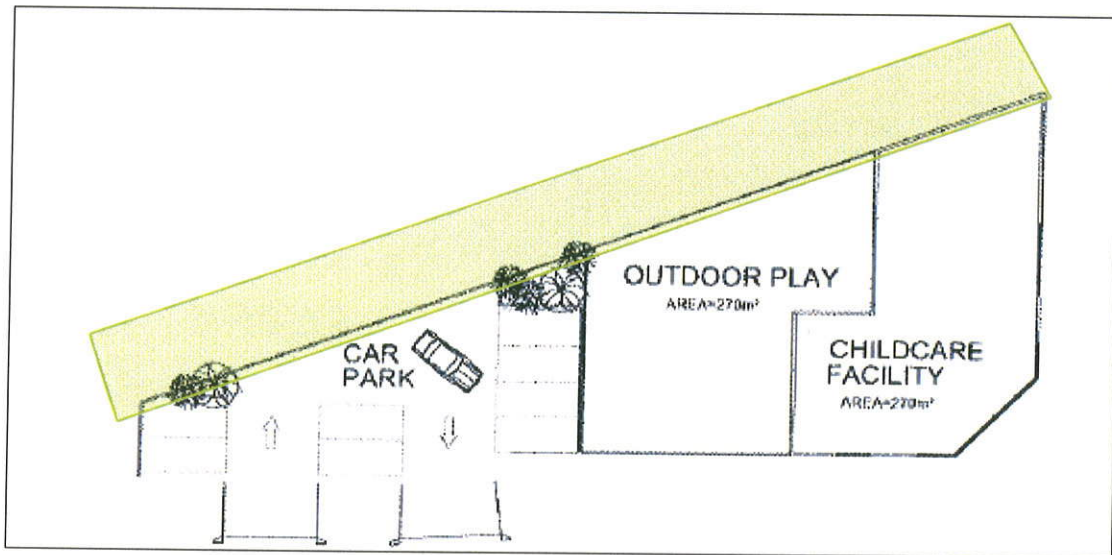


Figure 5: Extract of Stage 1 Project approved plan (Macpherson Street located on the right hand edge of the childcare facility and the overland flow path location added for context (green))

The proponent now seeks approval to modify this component of the associated approvals to increase the size of the footprint and enlarge the childcare centre from one to two storeys, with an overall increase in the gross floor area from 220m² to 693.5m². This increase in size is to cater for a maximum of 90 children (originally proposed 100).

Council raised concern regarding the built form of the modified proposal and its impact on the streetscape. In particular, Council raised concern that:

- the two storey built form of the building and the car parking area would impact upon the streetscape and the residential amenity of the adjoining properties; and
- the nil setback to the Macpherson Street boundary (as originally exhibited) provides no opportunity for landscaping to soften the bulk of the building, unlike the residential buildings on the site and as provided for along Macpherson Street.

During the assessment of the Concept Plan and Stage 1 Project, the department supported a childcare centre facility on the site on the basis that it would provide a much needed facility within the area and that sufficient parking would be provided on the site. Having regard to the building form, the department considered that the proposed single storey building was

compatible with the residential apartments and would not have an adverse impact on the amenity of adjoining properties.

In consideration of the proposed 2 storey design, the department notes that the immediate surrounding properties include 2 storey residences to the west of the site and a 3-4 storey aged care premises across Macpherson Street. Also, the subject site to the east of the childcare centre includes residential flat buildings to a height of 4 storeys. As shown in **Figure 6**, the proposal has also been raised above the natural ground level to ensure compliance with flooding requirements consistent with adjoining properties.

The department notes that the adjoining premises have been raised from the natural ground level to ensure compliance with flooding requirements, similar to the proposed childcare centre and car parking area. In this context the proposed two storey height of the childcare centre is considered to be appropriate.

Having regard to the proposed 2 metre setback to Macpherson Street, the department notes that the original Concept Plan and Project Approval for the childcare centre facility allowed a nil setback to Macpherson Street. The plans originally submitted with the proposed modification similarly sought a nil setback for the proposed 2 storey building form.

However, following concerns raised by Council and the department regarding the compatibility of the nil setback (having regard to the prevailing 6.5 metre setback of the adjacent 3-4 storey development), the proponent revised the design to provide a 2 metre setback to Macpherson Street to allow for landscaping to soften the appearance of the building and the car parking area.

Noting the above, the department considers that the proposed 2 metre setback addresses Council's earlier concerns in that it now provides for an opportunity for landscaping to soften the bulk of the building and the associated car parking area. Also, the department is of the view that despite the building including a 2 metre setback to Macpherson Street that does not match the 6.5 metres setback of the adjacent development, this is acceptable as it allows for outdoor play areas away from the street front.

Overall, the department is of the view that the proposed modification to increase the built form of the childcare centre is appropriate.



Figure 6: Proposed northern (Macpherson Street) elevation of childcare centre (Source: Proponent's additional information)

5.2 Flooding impacts and risk

The proponent seeks to construct a car parking area servicing the childcare centre over an area designated as an overland flow path to within 1.5 metres of the western property boundary (**Figure 7**). The design of the car parking area incorporates a raised platform over the overland

flow path, providing a clearance of approximately 600mm from the bottom of the car parking platform and the top of the car parking area at a level of RL 5.80 (**Figure 8**).



Figure 7: The subject site is shown in two sections. Area of overland flow path to be constructed over (yellow) adjacent to location of childcare centre (red) (Source: Nearmap 2013)

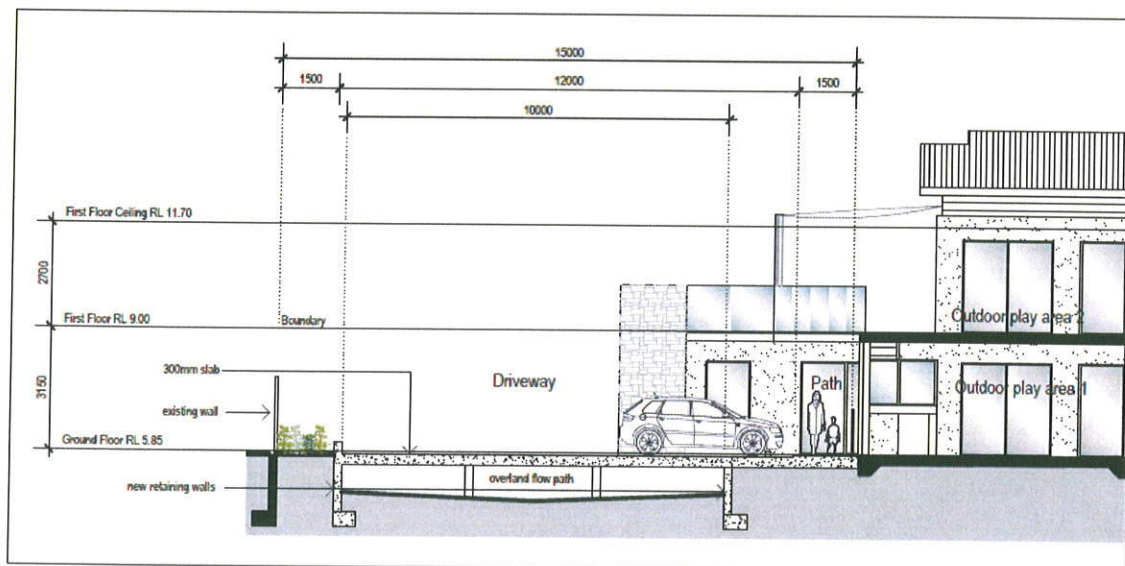


Figure 8: Proposed car parking area to be constructed over overland flow path (Source: Proponent's additional information)

Council raised concerns with the proposal to construct a car parking area over the overland flow path and questioned whether the proposed works would redirect overland flows onto surrounding properties. Additional justification was also requested to ensure that the proposed design does not impact upon the flood modelling, which considered impacts of the flood events up to the Probable Maximum Flood (PMF).

Council also raised concerns with the increased safety risks as a result of the proposed increase to the number of childcare places on the site.

Design of overland flow path and car parking structure

Following the concerns raised by Council, the proponent provided further justification for the proposal, including comments by Brown Consulting (NSW) Pty Ltd which states that:

- the swale (known otherwise as the overland flow path) has been designed to relieve flooding within Macpherson Street during the PMF event (estimated to be at 5.82m AHD);
- during the PMF event, the flow collects within Macpherson Street and once the road corridor has been 'overtopped', the swale is designed to collect and direct the flow along the site boundary toward Fern Creek;
- the swale has been designed to have capacity for the PMF event, preventing flows from entering the childcare centre; and
- during the 100 year ARI storm event the swale and childcare centre remain flood free.

Having regard to these points, the department considers the proposed design to be acceptable and recommends that the final design of the car parking structure, to be prepared by a suitably qualified engineer, include consideration of the design and appropriate measures to ensure that the overland flow path is maintained and free of obstruction. The condition also requires details being provided to the Private Certifying Authority demonstrating consultation with Pittwater Council has occurred during this design process.

It is considered that with the inclusion of this recommended condition, issues raised by Pittwater Council have been adequately addressed.

Flood risk and safety

The potential for flood safety risks as a result of the proposed modifications is a key issue in the assessment of the proposal. The department previously concluded in its Concept Plan assessment that the floor levels for the Stage 1 residential precinct were well above projected 1 in 100 year flood levels.

While the department notes that the site is affected by the PMF event, the proposed childcare centre has been designed to ensure that floor levels are provided above this event. The floor levels of the childcare centre are to be constructed at RL 5.85, which is 0.03 metres above the PMF level and 2 metres above the 1 in 100 year worst case scenario climate change event (3.85m AHD as stated by Brown Consulting considered in the Concept Plan application).

With appropriate measures in place, such as a Flood Emergency Management Plan, should a flood event occur, the operation of a childcare centre catering for 90 children is considered to be acceptable. In the event that the site is surrounded by flood water during the PMF event, the department is of the view (as also expressed by the proponent's consultant) that the site will not be isolated for unacceptable periods of time during all storm events. Macpherson Street will largely remain unaffected by flooding, particularly to the north of the site.

Brown Consulting has also reviewed the Draft Narrabeen Lagoon Flood Study and *Warriewood Valley Strategic Review* and is satisfied that the proposal meets the requirements of these documents and that at the time when Macpherson Street and Ponderosa Parade are unsafe to drive, a shelter in place strategy will be adopted for short periods until the roads are reopened.

Conditions are recommended to be incorporated within the Project Approval to ensure that a Flood Emergency Management Plan be prepared by a suitably qualified consultant in discussion with Council, the State Emergency Service and Police.

5.3 Section 94 contributions and offsets

As stated in **Section 2**, the proponent seeks to construct a car parking area over the overland flow path area to serve the enlarged childcare centre. This land was previously included in the overall 15,601sqm of land required to be dedicated to Council. The proponent however has not sought an amendment to the land dedication or Section 94 developer contributions requirement

of the approved Concept Plan, rather it is proposed to create an easement over that part of the land underneath the car park structure.

Pittwater Council

Council raised concerns that the proposed arrangement of constructing a private car park over the overland flow path, which was required to be dedicated to Council for public benefit, diminishes any public benefit. The Council contends that it cannot be utilised for public recreation and open space as originally intended. Council now considers that the whole overland flow path (2,260sqm) be excluded from the area to be dedicated to Council (**Figure 9** illustrates the area shown in green and blue) and that the offsets to Section 94 contributions be amended accordingly, i.e. greater contributions paid and a reduced area of dedication.



Figure 9: Area of land previously to be dedicated to Council now proposed to be covered by a car parking area, shown green (Source: Pittwater Council's submission to PPR)

Council is also of the opinion that it should not be held responsible for the future maintenance of the overland flow path if there is to be a private structure built over it, which should be enforced through the creation of an appropriate instrument.

In addition, Council also requests a review of the overall dedication of land (totalling 15,601sqm) in regards to the lands suitability for its intended purpose and the offset applied.

Department's consideration

During the assessment of the Concept Plan and Stage 1 Project, detailed consideration was undertaken in relation to the total Section 94 Contributions for the development and the associated offsets applicable through the provision of works in kind and dedication of land to Council.

The department's assessment report noted that Council had identified the potential for \$5,888,676 of offsets relating to works in kind and land dedication, public open space and

pedestrian networks (total dedication of 15,601sqm of land which included 8,920sqm of land for passive open space and 6,681sqm of land for a site creekline corridor). These proposed offsets were considered appropriate and agreed to by the proponent.

The department is supportive of Council's position that the utility of the overland flow path which now proposed to be covered by the car parking area (approximately 1,208sqm) is diminished in terms of public benefit as open space land. The department is however of the view that the remaining area, 1,052sqm to the south of the car parking structure (shown blue in **Figure 9**), can still be considered to provide a level of public benefit as originally considered. This is due to the fact that it remains connected to the larger portion of land to be dedicated to Council further to the south.

Based on the contribution rate previously determined in the Concept Plan of \$325 per sqm (as applied in the original Concept Plan approval), the department calculates a reduction to the offsets of \$392,600 for the area of the overland flow path covered by the car parking structure. Conditions of the Concept Plan and Stage 1 Project approval are recommended to be amended accordingly to address this revised arrangement.

To address Council's comments that it not be held responsible for the future maintenance of the overland flow path, the department has recommended that Condition B25 be incorporated in the Project approval requiring (underline added for emphasis):

- a) *Engineering plans and specifications for the car parking area located over the overland flow path are to be endorsed by a suitably qualified engineer prior the issue of the relevant Construction Certificate. Details are to include the design and measures proposed to ensure that the overland flow path is maintained and free of obstruction (by the developer or operator of the centre) and how access is to be provided should access be required. Documentation is to be provided to the satisfaction of the PCA demonstrating consultation with Pittwater Council.*
- b) *An easement is to be created relating to the area beneath the car parking area to be maintained (by the developer or operator of the centre) for the purpose of an overland flow path to the satisfaction of Pittwater Council.*

In terms of Council's request that the overall dedication of land elsewhere on the Warriewood site and the offset applied to this land be reviewed as part of this modification, the department is of the view that this issue was thoroughly considered during the assessment of the original Concept Plan (Appendix 10 of the Department's Assessment Report), where the department considered that an offset to the overall development contributions should be applied.

It is noted that Council will however receive an additional cash contribution of \$392,600 as a result of the assessment of this modification.

Beyond the area affected by the modification, the department considers that there is insufficient justification to revisit the contributions across the site. The department is of the view that the questions relating to suitability of the land and the associated value attributed to this area have been extensively considered and do not require a further review.

5.4 Traffic impacts and access arrangements

Concerns have been raised by Council and in public submissions regarding the traffic and parking impacts associated with the proposed intensification of the childcare centre.

Vehicular access to the childcare centre is provided via an internal road accessed off Macpherson Street, through a dedicated car park entrance approximately 70 metres from Macpherson Street intersection (refer to **Figure 4** above). This access point is located on the opposite side of two driveways serving the existing residential development constructed to the east of the childcare centre on the proponent's site.



Figure 10: Car park entrance points of residential apartment buildings to the east of the childcare centre site (indicated in red)

Traffic congestion

Concerns were raised by Council that when combined with the residential traffic entering and leaving the site through the same access point to the childcare centre, the additional traffic generated by an increase in childcare numbers would have implications for safety and the functionality of the car parking area. Council also recommends that 'No Stopping' restrictions be provided along the private site access road.

In addition, public submissions raised concerns with increased traffic using the car parking area located opposite the entrance to the basement carpark serving the residential apartments on the site.

To support the proposal, GTA (on behalf of the proponent) have undertaken a review of the application and considers that:

- vehicles entering the childcare car park from the internal road would experience an average delay of 0.4 seconds per vehicle, while vehicles exiting the northern basement car park of the adjoining residential development would experience an average delay of 2.3 seconds per vehicle;

- the proposed car parking arrangements minimise the potential for conflict between parents / carers / children and vehicles through the separation of the childcare car parking from passing traffic;
- the potential conflict at the childcare driveway and aisle is very low, and would not result in any significant traffic congestion; and
- the potential for conflict between the childcare access and residential basement access is low due to the low speeds on the internal road and sight distances.

Based on these findings, the department considers that the proposed traffic generation from the childcare centre would have minimal impacts upon the movements to and from the residential basement car parking area. In addition, the potential for conflict between users of the car park, pedestrians on adjoining footpaths and residents entering / exiting the basement driveways is considered to be minimal.

Car park design

Council raised concerns with the proposed aisle width (6.395 metres) not being provided in accordance with AS2890 where parking space widths of 2.6 metres are to be provided. Council recommended that the aisle width be increased to 6.6 metres or alternatively an aisle width of 6.2 metres would be acceptable if 11 parking spaces assigned for the drop-off / collection of children be increased from 2.6 metres to 2.7 metres.

Council also raised concerns with the design of the car park and recommended the deletion of the closest car parking space to the proposed driveway to improve safety and eliminate conflicts. Given the proposed car parking provision is in-excess of RMS requirements (refer below), the department supports deletion of this space to provide for a more generous vehicular manoeuvring space into and out of the car park.

The department notes that a recommended increase in parking space width to 2.7 metres can be achieved with a reduction to the width of the two landscaped areas, combined with the removal of the car parking space that adjoins the proposed driveway. A suitable condition is recommended to address this issue.

Car parking provision

Off-street parking provisions applicable to childcare centres within Pittwater Council utilise the RTA's 'Guide to Traffic Generating Developments' of 1 space for every four children in attendance. With 90 children proposed to be located at the centre, a minimum of 23 spaces is required to be provided.

The submitted car parking plan indicates the provision of 25 spaces, which is 2 spaces greater than the RMS requirement. As discussed above, the department recommends the deletion of 1 space to provide an improved car park entry and exit arrangement, which reduces the number of spaces to 24.

This reduction does not impact on the proposal's compliance with the RMS requirements and therefore no concerns are raised by the department in terms of parking provision for the childcare centre.

5.5 Noise impacts

During the exhibition, concerns were raised by Council and the public that the proposed increased childcare places would impact upon residential amenity as a result of additional noise. It is noted that the proponent has since reduced the proposed number of children to be provided within the centre from 100 (as exhibited) to 90 as a result of the change to the building form (**Section 5.1**).

The proponent has indicated that the proposed hours of operation of the centre would be between 6.00am to 8.00pm, Monday to Friday and the outdoor play areas would not be used before 8.00am and after 6.00pm.

Acoustic Logic, on behalf of the proponent, undertook an acoustic assessment of the proposed childcare centre and whether any mitigation measures would be required to ensure that the residential amenity of neighbouring properties is not negatively impacted. An assessment of the noise impacts of the proposal is indicated in **Table 2**, where background + 10dB(A) criteria for periods of 2 hours per day is the noise emission goal adopted by the Association of Australian Acoustical Consultants based on NSW Land and Environment Court decisions.

Location	Background Noise Level dB(A) L ₉₀ (15min)	Predicted Noise Levels from Outdoor Play	Criteria Noise Level L _{eq} (15min) dB(A)	Complies
Possum Way Receivers	42	51	52	Yes
Building A of 14-18 Boondah Road	42	47	52	Yes

Table 2: Noise levels of proposal compared to background noise levels (Source: Proponent's further information).

Acoustic Logic considers that the proposal would achieve the adopted noise emission criteria for childcare centres subject to the following measures and on-going management of the centre being provided:

- the number of children within the outdoor play areas is limited to 45 children aged 2 years to 5 years and 10 children aged 0-2 years at anyone time;
- minimum 6mm glass with acoustic seals around the perimeter of the building;
- signs reminding staff and visitors to minimise noise at all times should be installed at the ingress / egress from the child care centre;
- management to ensure children are supervised at all times to minimise noise generated by the children whenever practical and possible;
- installation of a contact phone number at the front of the centre so that any complaints regarding the centre operation can be made;
- there is a noise verification review once there is an operator and final children numbers and ages have been determined; and
- a 1.8 metre high acoustic fence should be provided along the western boundary of the site and is to be constructed of lapped and capped timber or fibrous cement sheet or colorbond sheet metal.

The recommendations by Acoustic Logic are supported by the department. With the construction of a 1.8 metre high acoustic fence along the western boundary and the implementation of the recommendations of the Acoustic Logic report, noise emitted from the centre is able to be minimised. Restricting the use of the outdoor play areas to between 8.00am and 6.00pm is also considered appropriate in the context of the adjoining residential properties.

Accordingly conditions are recommended to be included in the modified approval consistent with the above recommendations.

6. CONCLUSION

The department has assessed the merits of the proposed modifications taking into consideration the submissions that have been received from Council and the public.

The proposal to increase the size of the childcare centre on the site is considered to be appropriate in the context of the site, while noting the residential properties that surround the site. The department has considered the key issues and considers that subject to appropriate conditions, the proposed 90 place childcare centre is appropriate. The site can reasonably accommodate the proposed facility, including the large building and additional parking proposed. Further, the traffic and noise impacts as well as flood risks associated with the intensification have been demonstrated to be acceptable.

A critical aspect of the proposal is the parking area sought to be built above the overland flow path that was to be dedicated to Council. The proponent has demonstrated to the department's satisfaction that this design is acceptable having regard to the function of the overland flow path. The department has recommended conditions to ensure this function will be maintained.

The department has also recommended that the portion of the site containing the enlarged car parking area over the overland flow path be excluded from the land to be dedicated to Council and the Section 94 offsets amended accordingly.

Subject to the recommended conditions, the department recommends that the proposed modification be approved.


7. RECOMMENDATIONS

It is recommended that the Planning Assessment Commission:

- **consider** the findings and recommendations of this report;
- **approve** the modification, subject to modified conditions under Section 75W of the Environmental Planning and Assessment Act, 1979; and
- **sign** the attached Instrument of Modification for MP 09_0162 (MOD 4) and MP 10_0177 (MOD 13) (**Appendix D**).

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23.9.13

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27.9.13

Chris Wilson
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APPENDIX A PREVIOUS MODIFICATIONS

Concept Plan Modifications		
Modification No.	Application details	Determination
MP 09_0162 MOD 1	Amendment to delete the internal road, re-align the pedestrian/bicycle path routes and amend the requirements of accessible units and the provision of resident and visitor car parking.	Approved by the PAC on 15 December 2011
MP 09_0162 MOD 2 MP 10_0177 MOD 11	Amendment to clarify the extent of reconstruction works to Boondah Road and a revise the Statement of Commitments to alter the timing for the payment of developer contributions for Stage 2 of the development.	Part approved by the PAC on 6 November 2012
MP 09_0162 MOD 3	Amendments to the footprints of Buildings H to P, amendments to a private internal road and provision of an additional building to be used as a garbage store.	Approved by the DDG on 14 January 2013
Stage 1 Project Modifications		
Modification No.	Application details	Determination
MP 10_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
MP 10_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 DG on 12 October 2011
MP 10_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
MP 10_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
MP 10_0177 MOD 7	Staged strata subdivision of Buildings A, B, C, D, E, F, G and Pool Building.	Approved by the DDG on 18 April 2012
MP 10_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
MP 10_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 DDG on 23 May 2012
MP 10_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
MP 10_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 rood slab.	Approved by the DDG on 16 July 2012.
MP 10_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
MP 09_0162 MOD 2 MP 10_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
MP 10_0177 MOD 12	Provision of an additional study to Unit 349 and internal and external design changes to Buildings F, G and the pool building and amendment to Condition A1 to reference revised plans.	Approved by the DDG on 3 December 2012

APPENDIX B MODIFICATION REQUEST

See the department's website at:

MP 09_0162 MOD 4

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5866

MP 10_0177 MOD 13

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5900

APPENDIX C SUBMISSIONS

See the department's website at:

MP 09_0162 MOD 4

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5866

MP 10_0177 MOD 13

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5900