

***MODIFICATION REQUEST:***

***116a – 122b Epping Road, 259 – 263 Lane  
Cove Road and 1 – 9 Allengrove  
Crescent, North Ryde***

***MP 10\_0037 – Modification 1***

***Modification of the building envelopes  
and modification of the terms of approval  
to obtain approval for 179 apartments  
and 218 car parking spaces***



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

December 2013

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## EXECUTIVE SUMMARY

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This is an assessment of an application which seeks to modify the Concept Plan approval for a residential flat development at Allengrove Crescent, North Ryde, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979*.

On 3 May 2012, the Planning Assessment Commission (PAC) refused an application for a residential flat development on the site. The proponent filed Class 1 proceedings with the Land and Environment Court (the Court) appealing against the refusal. A conciliation conference under Section 34 of the *Land and Environment Court Act 1979* (Section 34 conference) was held. As part of the conciliation process the proponent submitted amended plans which the PAC considered reasonable and the parties therefore reached agreement. The Court entered orders to allow the appeal in accordance with the parties' agreement without the need for a hearing. The PAC granted approval for the Concept Plan on 28 November 2012.

This modification application seeks approval to:

- modify the approved building envelopes both vertically and horizontally to accommodate variations to stair/lift locations, new roof lights, plant equipment and adjustments to the design;
- reduce the number of buildings from seven to five by deleting the gap between two buildings and enclosing the basement ramp entry creating a link between two other buildings;
- increase the number of basement levels from two to three;
- modify the floor layout of the indicative floor plans and mix of units;
- obtain approval for 179 units. The approved plans indicatively show 154 units;
- obtain approval for 218 car spaces. The approved plans indicatively show 205 car spaces; and
- modify the basement including new entry ramp design, change in basement levels to increase head heights and provision of waste storage and collection area.

The application was publicly exhibited from Wednesday 17 July 2013 until Thursday 15 August 2013. The Department received 13 public submissions (including a submission from a special interest group), a submission from Ryde City Council (Council) and a submission from Roads and Maritime Services (RMS). All public submissions objected to the proposal raising concern about increased traffic and consistency with the PAC determination. Council's submission raised concern about traffic impacts, the number of car parking spaces and residential amenity. RMS did not raise any concerns with the proposed modifications.

The proposed modifications to the building envelopes are generally minor and do not result in any substantive change to the bulk and scale of the proposal or have any material impact on neighbouring properties. The increased traffic generation from the proposed 179 apartments will not have a detrimental impact on the surrounding road network. The submitted floor plans and car park layout are indicative only, with final designs to be determined in the assessment of future development applications by Council.

This application is referred to the PAC for determination given its substantive involvement in the original determination of the Concept Plan.

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## 1. BACKGROUND

### 1.1 Site and Surrounds

The site is located on the southern corner of the intersection of Lane Cove and Epping Roads, North Ryde. It has frontage to Lane Cove Road at its northern boundary, to Epping Road at its eastern boundary and to Allengrove Crescent at its western boundary. The site has an area of 12,297m<sup>2</sup> and it slopes to the northeast towards Epping Road and to the northwest towards Lane Cove Road. It is currently occupied by 15 dwelling houses (**Figure 1**).

Surrounding land uses on the southern side of Epping Road are predominantly single residential dwellings. Commercial and retail land uses are located to the north of the site on the opposite side of Epping Road.

**Figure 1 – Site and surrounds**



The site is located within the Ryde Local Government Area approximately 11km north-west of the Sydney CBD. It is within walking distance of the Macquarie Park specialised centre which consists of large, globally focused companies in a business park setting near Macquarie University. The site is located close to public transport, with Macquarie Park train station 400m away and bus services available nearby.

### 1.2 History of Concept Plan application

On 30 November 2010, an application was lodged with the Department seeking Concept Plan approval for a residential flat development containing 269 dwellings within three rows of buildings, ranging in height from three to eleven storeys. On 25 May 2011, the proponent submitted a Preferred Project report which reduced the number of apartments to 196 and reduced the building heights to a maximum of eight storeys.

On 20 March 2012, the Department referred its assessment of the project to the PAC. The Department's assessment recommended that the application be approved subject to reductions in the height of various buildings. On 3 May 2012, the PAC refused the application based on the developments inconsistency with local planning controls and the character of the area, and traffic and amenity impacts.

On 23 May 2012, the proponent filed Class 1 proceedings with the Land and Environment Court of NSW (Court) appealing against the refusal. On 30 July 2012, a section 34 conference was held. On 29 August 2012, the proponent submitted revised plans and documentation for a reduced development. The PAC and its experts reviewed the plans and the parties agreed to the amended development.

On 28 September 2012, the Court entered orders to allow the appeal in accordance with the parties' agreement. In summary, the orders provided for:

- use of the site for residential flat buildings;
- indicative building envelopes for 7 buildings to a maximum height of 89.25m AHD;
- two basement levels of car parking;
- road works to support the development; and
- landscaped areas throughout the site.

On 28 September 2012, the PAC granted approval to the development, consistent with the Court orders. The PAC amended the approval on 23 November 2012, to address errors in the property description.

On 19 July 2013, a development application (LDA 2013 – 0260) was lodged with Council for the proposed development. Council has written to the proponent advising them that the development application will not be progressed until this Section 75W is determined. Further, Council has requested that a number of matters be addressed prior to public exhibition of the application, including provision of additional information on residential amenity, construction management and landscaping,

Additional details on the history of the application are provided at **Appendix B**.

## **2. PROPOSED MODIFICATION**

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### **2.1 Modification Description**

The application as exhibited proposed the following:

- to modify the approved building envelopes both vertically and horizontally to accommodate variations to stair/lift locations, plant equipment and adjustments to the design;
- to reduce the number of buildings from seven to five by deleting the gap between two buildings and enclosing the basement ramp entry creating a link between two other buildings;
- to increase the number of basement levels from two to three;
- to modify the floor layout of the indicative floor plans and mix of units;
- to obtain approval for 179 units. The approved plans indicatively show 154 units;



- to obtain approval for 218 car spaces. The approved plans indicatively show 205 car spaces; and
- modifications to the basement including new entry ramp design, change in basement levels to increase head heights and provision of waste storage and collection area.

On 8 November 2013, the proponent submitted amended plans to address concerns raised by Council. The amendments included:

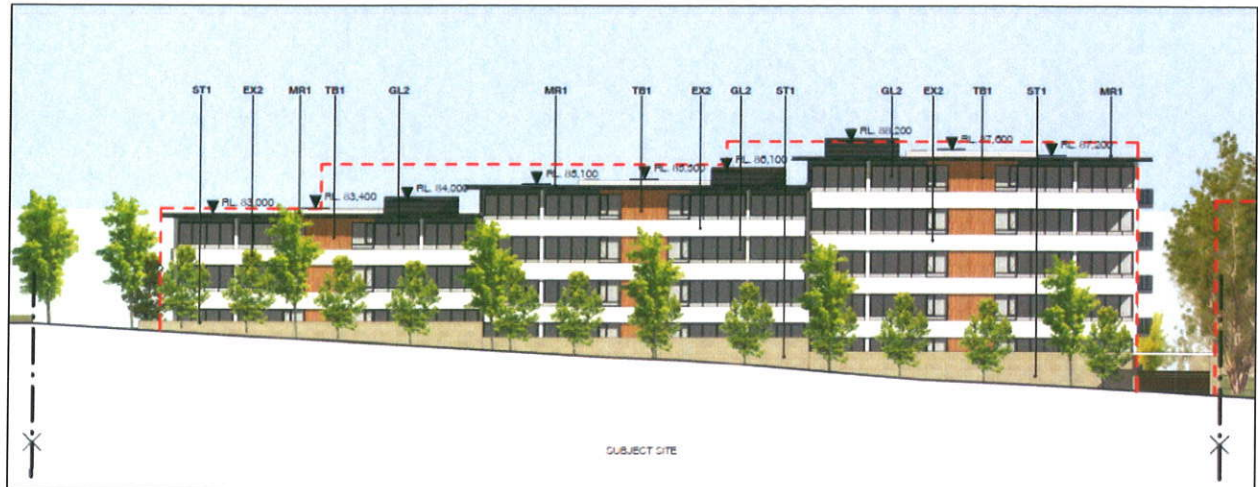
- deletion of the light wells from the indicative floor plan layouts;
- addition of roof lights to 13 upper level apartments to provide for cross ventilation;
- revised apartment layouts;
- various amendments to the basement, including lowering the basement levels by up to 300mm to provide additional head height within the loading dock; and
- addition of privacy screens to various units.

The proponent has provided an envelope study which details the proposed modifications to the building envelopes. **Figure 2** (below) shows the changes at the roof level which provide a general indication of the scope of change. **Figure 3** shows the eastern (Epping Road) elevation.

**Figure 2 – Proposed changes to building envelopes – Roof level**



**Figure 3 – Eastern (Epping Road) elevation**



### 3. STATUTORY CONTEXT

#### 3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (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 the associated regulations, and the Minister (or his delegate) may approve or disapprove the proposed modifications to the Concept Plan under section 75W of the EP&A Act.

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

Section 75W(2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. The proposed modification seeks to amend the form of the approved development and therefore requires the Minister's approval.

#### 3.3 Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Director-General scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. DGRs were not issued for this modification as the proponent has addressed the key issues related to the modification request.

#### 3.4 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to the PAC where the application is not for major infrastructure development and the proponent is not a public authority (other than a local authority). The project is not for a major infrastructure development and the proponent is a private



company. The PAC can therefore determine the modification request under delegated authority.

There has been less than 25 submissions received, no political donation declaration has been made and Council has not objected to the development and accordingly the Executive Director could exercise his delegation to determine the application. However, in this instance it is appropriate to refer the matter to the PAC for determination rather than exercise his delegation, given the PACs substantive involvement in the determination of the Concept Plan.

## **4. CONSULTATION AND SUBMISSIONS**

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### **4.1 Exhibition**

Under Section 75X(2)(f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The Department:

- publicly exhibited it from 17 July 2013 until 15 August 2013 (30 days):
  - on the Department's website;
  - at the Department's, Information Centre;
  - at Ryde City Council, Customer Service Centre;
  - at Ryde library;
- advertised the public exhibition in the Sydney Morning Herald, Daily Telegraph, Gladesville Weekly Times and Northern District Times on 17 July 2013; and
- notified landholders, and relevant State and local government authorities in writing.

The Department received 15 submissions during the exhibition, consisting of 13 submissions from the public, a submission from Council and a submission from RMS. A summary of the issues raised in submissions is provided below.

### **4.2 Public Authority Submissions**

#### Ryde City Council

- Any modifications should clearly demonstrate better design and amenity outcomes and not simply be a tool to increase yield.
- Any increase in the number of units should not increase the traffic associated with the development. The road network is inadequate to accommodate the additional traffic. There is an argument that any increase in unit numbers should not be accompanied by additional car parking.
- The Department should be satisfied that the proposed 1 bedroom + study units are genuinely configured for that purpose and are not 2 bedroom apartments in disguise.
- The Department should be satisfied that the light wells achieve the desired outcome of providing light and ventilation to the units. Council's Urban Design Review Panel views the light wells as unacceptable because of the potential for noise and odour to travel between units. The Panel suggested the removal of the light wells would reduce the width of the buildings and allow for increased separation between buildings.

### Department comment

- The Department's assessment in Section 5 of this report concludes that the proposed parking provision is consistent with the requirements of Council's DCP and that the road network can accommodate the additional traffic generated by the proposal.
- The submitted floor plans are indicative only with detailed designs to be determined during the development assessment process by Council. The proponent has deleted the light wells from the indicative floor plans and made provision for roof lights to allow the development to comply with requirements of the Residential Design Flat Code.
- The amended indicative floor plans, illustrate the studies within the 1 bedroom apartments have been reduced in size and no longer have direct external access, reducing their suitability for use as bedrooms.

### Roads and Maritime Services

- RMS raises no objection to the proposed modification.
- RMS has received a development application from Ryde City Council for this site which includes the proposed modifications. RMS will be responding to Council with specific requirements for inclusion in the development consent.

### Department comment

- The RMS comments are noted. The Concept Plan approval requires future applications to provide details of road upgrade works.

## 4.3 Public Submissions

Thirteen submissions were received from the public, including a submission from the Ryde Community Alliance.

All of the public submissions objected to the proposed modification. The key issues raised in public submissions are listed in Table 1 below.

**Table 1: Summary of Issues Raised in Public Submissions**

Issue	Times mentioned	Proportion of submissions (%)
The development would give rise to traffic congestion & access constraints that would detrimentally impact on existing and future residents and local roads	8	62
The proposal is inconsistent with LEP & not orderly development	5	38
The proposal is incompatible with R2 low density zoning and out of character with residential area	5	38
The proposal would adversely impact on the amenities of residents by way of noise and disturbance, traffic, overlooking and visual intrusions	5	38
Approval would reflect poorly on the independence and decision making ability of the Planning Assessment Commission	4	31
Other issue raised in submissions include: the application should be determined by PAC, developers are showing contempt for the process, modifications would water down the PAC approval		

The Department has considered the issues that were raised in submissions in its assessment of the proposed modification in Section 5 of this report.

A number of public submissions referenced the PAC reasons for refusal of the original Concept Plan application. It is considered that those matters were addressed to the satisfaction of the PAC in the approved amended plans negotiated through the Land and Environment Court conciliation process.

## 5. ASSESSMENT

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The Department considers the key assessment issues to be:

- density;
- traffic generation and parking;
- residential amenity;
- bulk and scale; and
- consistency with the Concept Plan approval.

The Concept Plan approval established building envelopes including footprints, heights and setbacks. The approved plans include an indicative layout for 154 apartments and a basement car park with 205 spaces. Although approval was not granted for the specific apartment or basement layouts, these provide an indication of the capacity of the approved building envelopes and are used as a base against which to compare the impacts of the modified proposal.

### 5.1 Density

This application seeks to modify the approved Concept Plan to specify that approval is granted for 179 apartments and to modify the indicative apartment layouts.

An assessment of the key issues associated with the increased density, including traffic, parking, residential amenity and bulk and scale has been undertaken to determine whether the site and building envelopes are capable of accommodating 179 apartments. Each of the key assessment issues associated with the increased density are considered on their merits in the following sections of this report. In summary, the assessment demonstrates that the site is capable of accommodating the proposed density and the proposed modifications will not lead to any unreasonable traffic, amenity or visual impacts.

Further, from a strategic planning perspective, the Department considers that the proposal supports key aims of *The Draft Metropolitan Plan for Sydney to 2031* and *The Draft Sydney Inner North Subregional Strategy*. The site is appropriately located to accommodate additional apartments, being close to several modes of public transport including the recently constructed Macquarie Park train station, educational facilities and an employment centre.

However, it should be noted that the modified floor plans remain indicative and that the Concept Plan approval requires other matters to be considered in detail in future development applications, including detailed building design, which may alter the final future development yield. Accordingly, it is the recommendation of this report that the terms of approval be amended to specify that approval is given to up to 179 apartments as an upper limit.

## 5.2 Traffic Generation and Parking

The modification application was accompanied by a transport impact assessment prepared by GTA consultants. The proponent subsequently submitted a peer review of the GTA consultants report, prepared by Christopher Hallam & Associates.

### Traffic Generation

Additional traffic generation was a key concern raised in public submissions. In particular, concern was raised regarding increased road congestion and potential access difficulties. Council raised similar concerns and is of the view that any increase in the number of apartments should not lead to additional traffic movements. Council also raised concern that nearby major intersections have reached capacity. However, it should be noted that RMS did not raise any objection to the modified proposal.

To assess the traffic impacts associated with the modified proposal, an analysis of the traffic generated by the approved Concept Plan compared to the modified proposal was undertaken. This included consideration of both the RMS trip generation rate and a more conservative generation rate.

The RMS's *Guide to Traffic Generating developments*, recommends that a trip generation rate of 0.29 trips (per dwelling) be applied to determine Peak Hour Vehicle Trips for high density residential development in a Metropolitan Sub-Regional Centre. Traffix Consulting, who prepared the transport impact assessment that accompanied the Environmental Assessment for the original Concept Plan, applied a more conservative rate of 0.4 trips in its assessment. Table 2 below illustrates the traffic generation estimates for the indicatively approved and proposed developments applying both trip generation rates.

**Table 2 – Traffic Generation**

	Number of dwellings	RMS Rate		Conservative Rate	
		Traffic generation rate	Traffic generation Estimate	Traffic generation rate	Traffic generation estimate
<b>Approved indicative layout</b>	154	0.29 trips per dwelling	45 peak hour vehicle trips	0.4 trips per dwelling	62 peak hour vehicle trips
<b>Proposed Indicative layout</b>	179	0.29 trips per dwelling	52 peak hour vehicle trips	0.4 trips per dwelling	72 peak hour vehicle trips

GTA acknowledge the different generation rates and identified a potential traffic generation range of 52 – 72 vehicles per hour for the modified proposal. The range represents the variation between the two results when the RMS and a more conservative generation rate is applied. The Hallam report agrees with the GTA traffic generation range and expresses the view that

*“with the nature of the development proposed, with the proximity of employment in the area and with good public transport, in particular with the railway station 400m away, we tend to the view the generation will be in the low end of the range”.*

GTA undertook further analysis of the 10 additional vehicles which the conservative analysis calculates the additional apartments will generate. It applied a 20% inbound



/ 80% outbound split to establish that in the AM peak an additional 8 cars will leave the site each hour. This equates to an additional vehicle exiting the site every 7.5 minutes. GTA conclude that it is not expected that the development will have a detrimental impact on the surrounding road network.

Hallam specifically considered the impact of the increase in traffic upon the capacity of Allengrove Crescent. It calculated the current and proposed peak hour two way traffic flow, as follows:

<b>Current</b> weekday peak hour two way traffic flow:	14 veh/hr
<b>Future</b> weekday peak hour two way traffic flow:	65 veh/hr

Hallam concludes that although the percentage increase in traffic in Allengrove Crescent is substantial, the anticipated traffic volumes were significantly less than the 200 vehicles per hour, capacity performance standard set by RMS's *Guide to Traffic Generating developments* for local roads.

GTA considered the impact on the broader road network having regard to the micro simulation model in the Traffix report. It concludes that

*"the intersection of Lane Cove Road / Allengrove Crescent will continue to operate at a similar level of service as that detailed in the Concept Approval, as the upstream signal allows breaks in the traffic flow, allowing vehicles safe and reasonable access to Lane Cove Road".*

Hallam agrees with the conclusions of the GTA report that there is adequate capacity in the road network to cater for the modified proposal.

It is the Department's view that the impact from the increase in traffic generated by the proposed 179 units is reasonable and within acceptable limits. The Department considers that an additional vehicle movement every 7 minutes is likely to be indiscernible and the overall traffic volumes in Allengrove Crescent are below those considered acceptable by the RMS for a local road environment.

It should also be noted that the Department supported the development of the site for higher density residential development, because of its proximity to public transport, education facilities, retail services and employment which all combine to reduce future resident's reliance on private motor vehicles. All of these factors remain relevant to the modified proposal. The Concept Plan approval also includes measures which seek to influence future residents travel behaviour, including a requirement to provide a sustainable travel plan and bike facilities, to further reduce impacts on the road network.

### Parking

The Concept Plan approval specifies that future applications must address the provision of on-site parking in accordance with the requirements of Ryde DCP 2010 (the DCP). The DCP provides a parking rate range for different apartment types. Table 3 assesses the development against its provisions.

**Table 3 – Parking Requirements**

Apartment Type	No. of each apartment type proposed	DCP parking rate range (spaces per dwelling)	Required number of parking spaces	Proposed number of parking provision
Studio	21	0.6 – 1	140 – 201	179 (including 19 adaptable)
1 bed	72			
2 bed	77	0.9 – 1.2		
3 bed	9	1.4 – 1.6		
Visitor	-	1 per 5 dwellings	36	36
Car Share Space	-	-	-	1
Service Vehicle Spaces	-	-	-	2
Total	-		176 – 237	218

The proposed parking provision complies with the requirements of Council's DCP. Both GTA and Hallam consider the proposed parking provision to be acceptable.

Council has expressed the view that it may be inappropriate to provide additional apartments with car parking due to the consequential traffic impacts. However, the above traffic assessment has identified that the additional traffic impacts are low and can be accommodated by the existing road network without any unreasonable impacts.

The Department is therefore satisfied that the proposed parking rate is acceptable, being compliant with the requirements of Council's DCP. The proposed parking provision sits within the middle of the allowable range and does not seek to maximise on-site parking. It is recommended that the Concept Plan approval be modified to specify that up to 218 car parking spaces may be provided.

### 5.3 Residential Amenity

The overall design remains generally consistent with the aims and objectives of *State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings* (SEPP 65) and *Residential Flat Design Code* (the Code). Specific discussion is provided on areas of variation below. It should also be noted that further detailed consideration of residential amenity will be undertaken during the future development application stage by Council.

#### Building separation

It is proposed to reduce the separation between buildings C and D from 12m to 11.38m and the separation between the 5 storey element of building B and the 4 storey element of building B from 18m to 17.5m.

The indicative plans show that it is possible to provide apartments with a high level of amenity with a reduced setback as the majority of apartments would receive 3 hours of sunlight, are cross ventilated and would maintain reasonable levels of privacy. The reduced separation distance is considered to be minor and would not result in any substantive change in the spatial relationship between the buildings. In this instance the reduced separation is therefore supported.

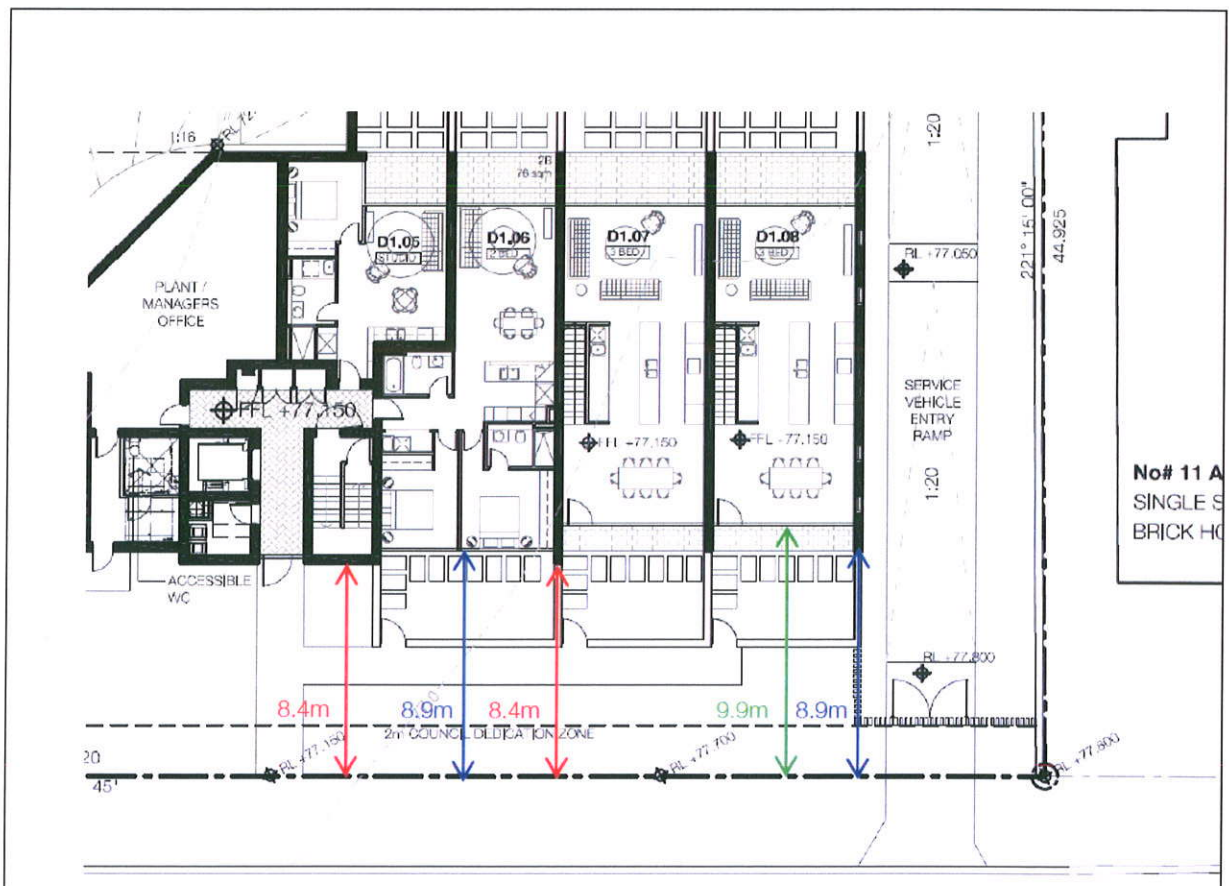
The proposed driveway enclosure reduces the separation between building C and D to 3m (approx) for a section between the buildings. The reduced separation is acceptable as it affects a limited portion of the building C. Further it is possible to provide dual aspect apartments in that portion of the building so that an alternative outlook can be provided minimising potential privacy impacts from the side elevations.

### Setback from street

It is proposed to reduce the setback of the north-eastern corner and mid-section of building A from 10m and 10.8m to 9.5m and 10.6m respectively along the Epping Road frontage. The reduced setbacks affect only small portions of the building, as the boundary curves away from the building. These minor non-compliances do not substantially change the buildings relationship to the street or compromise the amenity of the apartments.

It is also proposed to reduce the setback of building D from Allengrove Crescent from 8.9m to 8.5m. On the indicative floor plans, the façade of the building is stepped with the fire stairs and framing elements setback 8.4m, whilst the majority of the façade is setback 8.9m as illustrated in Figure 4 below. The proposed reduction is supported on the basis that it is a minor change and the proposed envelope can achieve an acceptable relationship to the street.

**Figure 4 – Indicative setbacks to eastern portion of building D**



### Boundary setback

It is proposed to reduce the setback from No. 253 Lane Cove Road from 6.6m to 6.2m. The approved building envelope permits a three storey building which is setback 6.6m. The proposed envelope introduces a new two storey section, which extends outside the approved envelope, which is setback 6.2m. The reduced setback is considered to be minor and it would still be sufficiently setback from No. 253 Lane Cove Road to protect its amenity.

### Cross Ventilation

The RFDC Rules of Thumb recommend that 60% of units be naturally cross ventilated. The indicative floor plans allow 61% of apartments to be cross ventilated.

The indicative floor plans previously included light wells for the purpose of providing apartments with cross ventilation. Council raised concern about the functionality of the light wells as a source of light and ventilation and as a potential means to transfer noise and odour between apartments. The proponent responded to Council's concerns by submitting amended indicative plans which deleted the light wells and added new roof lights to some apartments providing adequate cross ventilation.

### Solar Access

The RFDC Rules of Thumb recommend that at least 70% of units achieve a minimum three hours of direct sunlight in living rooms and private open spaces in mid-winter. The proposed design maximises the sites orientation to the sun and 86% of apartments receive 3 hours sunlight.

## **5.4 Bulk and Scale**

A number of the proposed modifications result in changes to the bulk and scale of the approved envelopes. The proponent has provided a detailed envelope study which identifies the changes at each level of the development, with the most significant changes being;

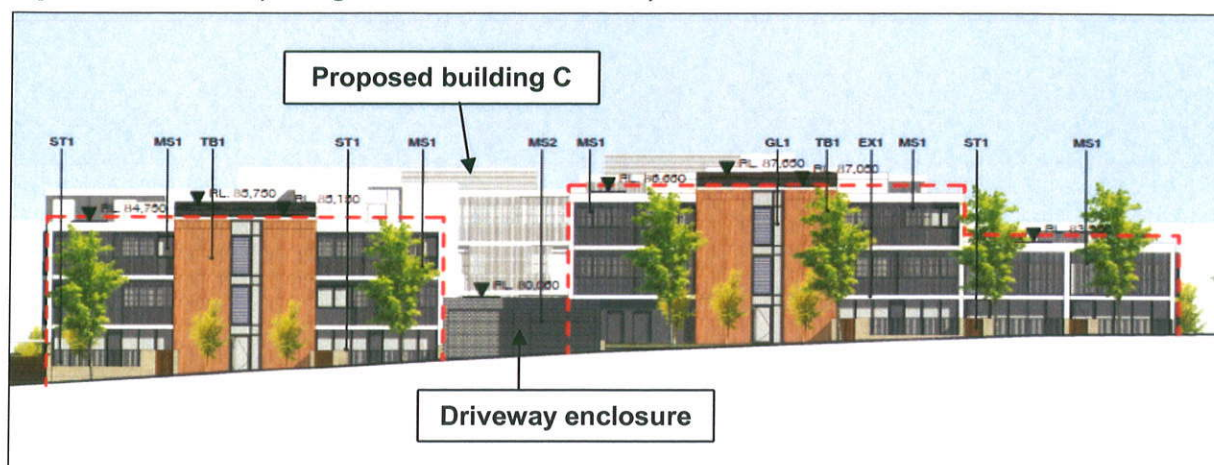
- the deletion of the gap between the 2 centrally located building envelopes; and
- the enclosure of the driveway, creating a single storey link between the two approved building envelopes on Allengrove Crescent.

The deletion of the gap between the two centrally located building envelopes will create a longer single envelope (building C) (refer **Figure 2**). The building will maintain a similar relationship with the neighbouring properties as the additional bulk is centrally located within the site. The additional bulk will be visible from Allengrove Crescent (refer **Figure 5**) through the gap in building D, but this will have a minimal impact as it would be setback 35 metres from the street. Views of building C from Allengrove Crescent are obstructed by building D, further minimising its visual impact.

The proposed driveway enclosure would create a link between the two approved building D envelopes at Allengrove Crescent. The enclosure will not be visually prominent being a single building sitting between 2 three storey buildings (refer **Figure 5**). Its visual impact is further mitigated as it would have a greater setback from the street than the adjoining building.



**Figure 5 – Western (Allengrove Crescent elevation)**



In addition to the above, the proposed modifications include a number of minor extensions to the building envelopes including vertical protrusions to accommodate roof top plant and roof lights and horizontal protrusions to accommodate lift cores and fire stairs. The new protrusions are largely internal to the site and will have minimal visual and amenity impacts on surrounding properties. The submitted shadow diagrams demonstrate that the changes will not result in additional overshadowing of the neighbouring properties.

It is therefore considered that the proposed changes to the building envelopes are acceptable as they will not have any unreasonable visual or amenity impacts.

## 5.5 Consistency with Concept Plan approval

The proposed development is generally consistent with the Concept Plan approval. The height and footprint of the envelopes remain substantially the same. The proposed minor modifications are a consequence of detailed consideration of future apartment layouts and basement requirements.

The proposed modifications will not prevent the proponent from being able to comply with the terms of approval or future assessment requirements of the Concept Plan approval.

## 6. CONCLUSION AND RECOMMENDATIONS

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The Department has assessed the application and has considered the submissions and the proponent's response to submissions. The key issues relate to:

- density;
- traffic generation and parking;
- residential amenity;
- bulk and scale; and
- consistency with the Concept plan approval.

The Department is satisfied that the site is capable of accommodating the increased density and the proposal will not lead to any unreasonable traffic, amenity or visual impacts. The Department is also satisfied that the integrity of the original Concept Plan approval will be retained.

It is recommended that the Planning Assessment Commission:

- (a) Consider the findings and recommendations of this report;
- (b) Approve the modification request under delegated authority; and
- (c) Sign the attached Instrument of Modification for MP 10\_0037 Mod 1 (**Appendix D**)

Endorsed by:



Dan Keary  
**Director**

**Industry, Key Sites and Social Projects**

17/12/13

Endorsed by:



Chris Wilson

**Executive Director**

**Development Assessment Systems & Approvals**

17.12.13

## **APPENDIX A      MODIFICATION REQUEST**

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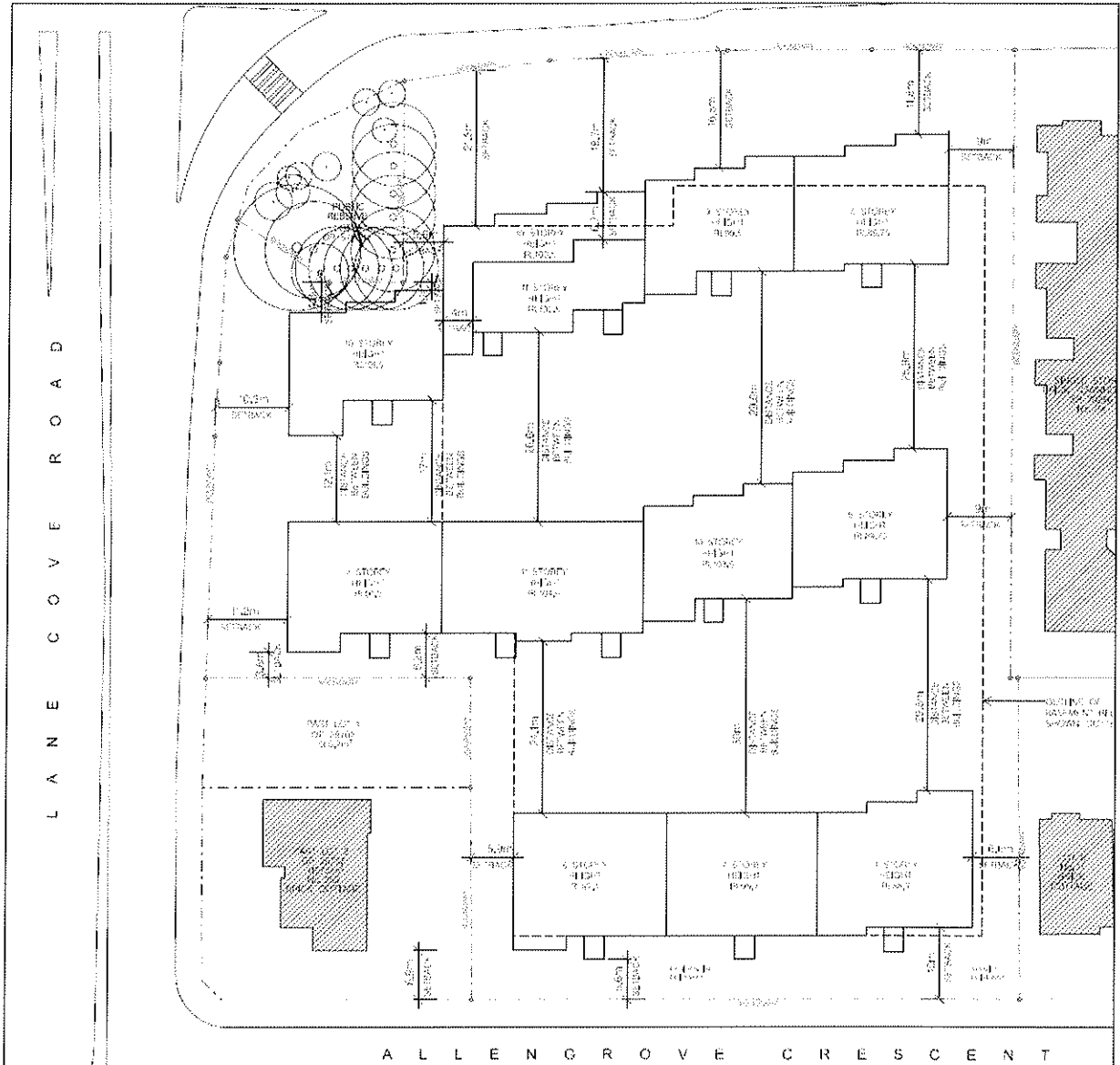
See the Department's website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5977](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5977)

## APPENDIX B HISTORY OF CONCEPT PLAN APPLICATION

On the 30 November 2010, an application was lodged with the Department seeking Concept Plan approval for a residential flat development containing 269 apartments, within three rows of buildings, three – eleven storeys in height. The project had a total Gross Floor area of 28,370m<sup>2</sup> (FSR 2.3:1) and a basement car park for 394 cars.

### Plans submitted with Environmental Assessment



The application was publicly exhibited from 1 – 30 December 2010. The Department received 5 submissions from public authorities and 38 objections from members of the public. A petition opposing the development with 1,412 signatures was also received.

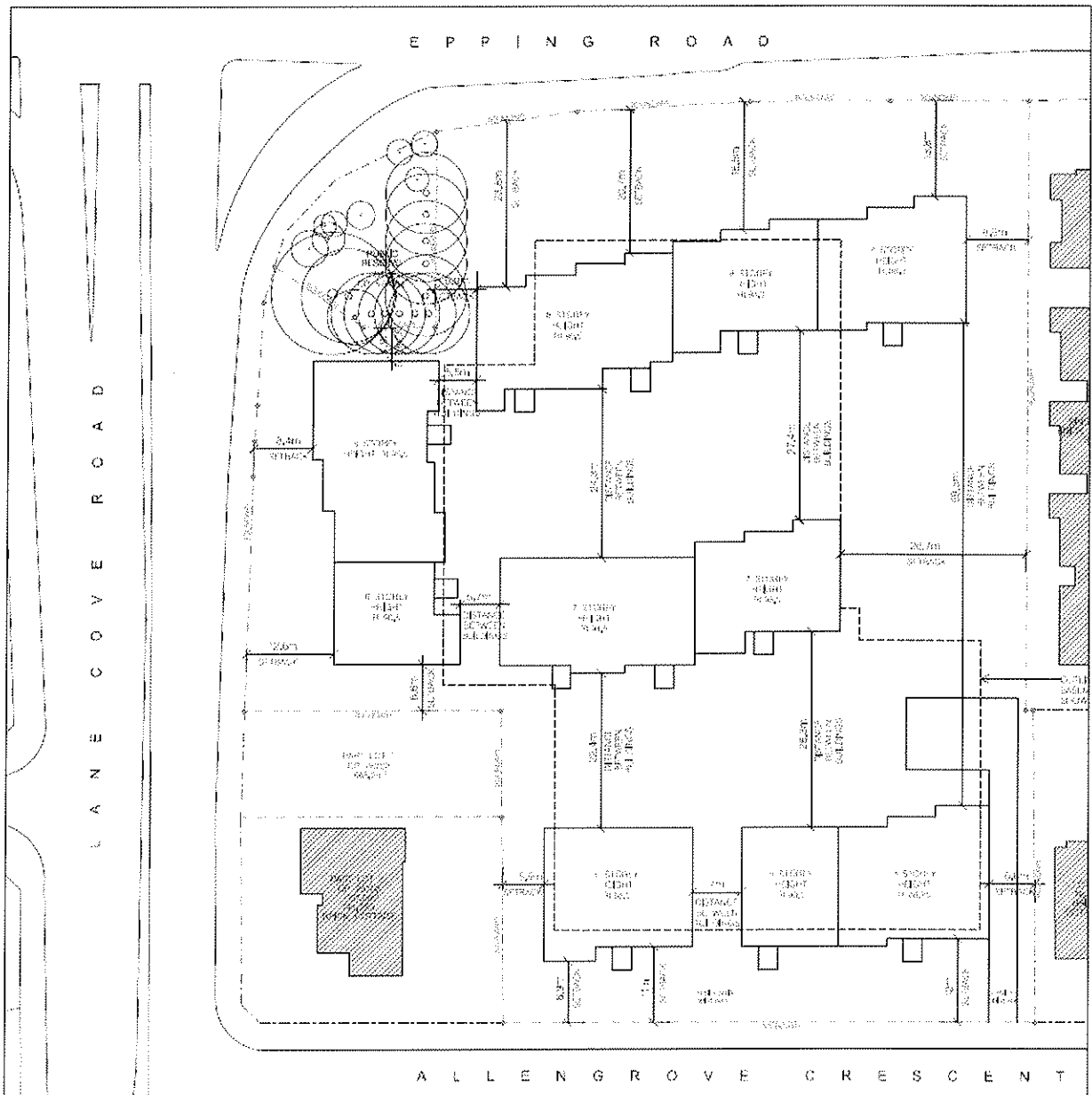
On 25 May 2011, the proponent lodged a Preferred Project Report. Key amendments made to the project included:

- the number of apartments was reduced from 269 to 196;



- the GFA was reduced from 28,730m<sup>2</sup> (2.3:1) to 19,916 m<sup>2</sup> (1.62:1);
- the maximum building height was reduced from eleven to eight storeys, with the height of all but one building reduced; and
- increased building setbacks from Allengrove Crescent, Epping Road and the south eastern boundary.

#### Plans submitted with Preferred Project Report



On 20 March 2012, the Director - General provided his assessment of the project to the PAC for determination. The report recommended the application be approved subject to the buildings on Allengrove Crescent and the centrally located building being further reduced in height to better respond to the scale of the adjoining low density residential areas.

On 16 April 2012, the PAC held a public meeting. On 3 May 2012, the PAC refused the concept plan for the following reasons:

1. It is not in the public interest to approve the proposed development because it would be inconsistent with the provisions of the Ryde Local Environmental Plan 2010 and would adversely impact on the development of land in the City of Ryde;
2. The proposed development would be incompatible with the Ryde Local Environmental Plan 2010 R2 Low Density Residential zone objectives and out of character with the surrounding residential area;
3. The proposed development would give rise to traffic generation and access constraints that would detrimentally impact on existing and future residents, and the local road network; and
4. The proposed development would adversely impact on the amenities of residents by way of noise and disturbance, traffic overlooking and visual intrusion.

On 23 May 2012, the then proponent filed class 1 proceedings with the Land and Environment Court of NSW (Court) appealing against the PAC's decision.

On 30 July 2012, a Section 34 conference was held. The conference was attended throughout by the parties to the matter, their legal representatives and technical experts. Council officers, the Member for Ryde and residents/objectors attended the first part of the conference, including the site inspection. The conference was adjourned to allow the parties time for further consideration and the proponent the opportunity to prepare revised plans and documentation.

On 29 August 2012, the proponent submitted revised plans and documentation for a reduced development. The PAC considered the amended plans assisted by independent planning and traffic experts. The PAC found the amended plans:

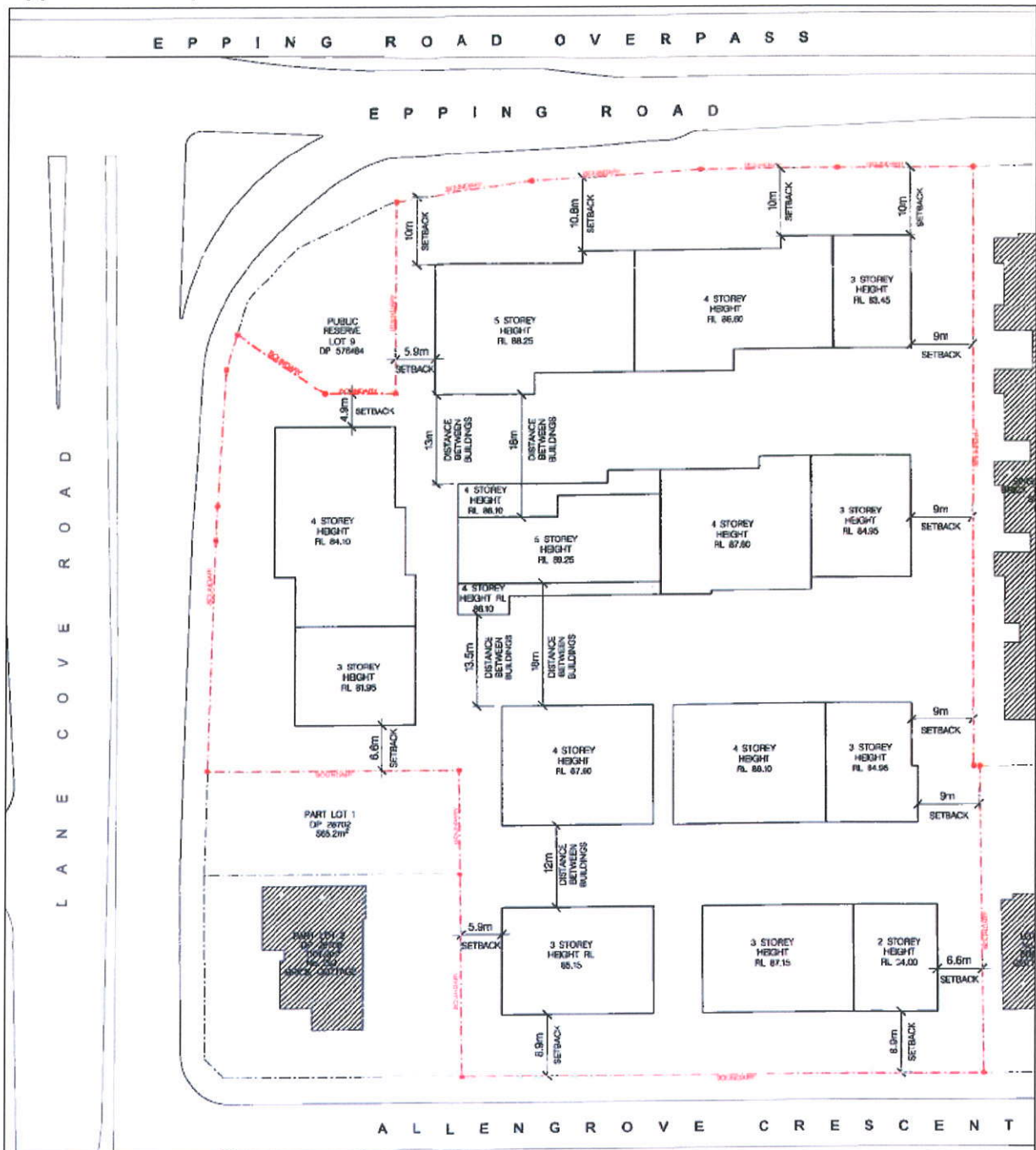
- reduced the maximum height of the development from eight-storeys to five-storeys (at the corner of Epping Road and Lane Cove Road and two-three storeys fronting Allengrove Crescent). In the PAC's view the reduced heights substantially improved the proposal's relationship to the surrounding development, whilst minimising amenity impacts on neighbours;
- reduced the density and number of car parking spaces; and
- will secure reasonable amenity for future residents, noting any future development application(s) must demonstrate compliance with SEPP 65 – Design Quality of Residential Flat Development and the Residential Design Flat Code.

Accordingly, agreement was reached between the parties. On 28 September 2012, the Court entered orders to allow the appeal in accordance with the parties' agreement. In summary, the orders provide for a residential flat development concept, including:

- use of the site for residential flat buildings;
- indicative building envelopes for 7 buildings to a maximum height of 89.25m AHD;
- two basement levels of car parking;
- road works to support the development; and
- landscaping areas throughout the site.

On 28 September 2012, the PAC granted approval to the concept plan application (as amended).

### Approved Concept Plans



The applicant subsequently submitted a 'slip rule application' to the Land and Environment Court to address errors in the land description. The Court sealed amended orders on the 21 November and the PAC approved an amended concept plan on 23 November 2013.

On the 28 November 2012, the PAC released a statement in regards to its approval. In that statement it is states that:

*"The plans endorsed as part of the Concept plan establish the development's overall layout, including the footprint and height of the buildings. The indicative*

*floor plans in the approved plans show 154 units and 205 car spaces. The Council is the consent authority for the subsequent development application(s). The final number of car parking spaces will be determined as part of subsequent development application(s) to be submitted to Council. Any consent for all or any part of this modification must be generally consistent with the Concept approval."*

On 19 July 2013, a development application was lodged with Council for the proposed development. Council has written to the applicant requesting that they address a number of matters prior to its public exhibition.



## **APPENDIX C     SUBMISSIONS**

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See the Department's website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5977](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5977)

## **APPENDIX D    RECOMMENDED MODIFYING INSTRUMENT**

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