

110-114 Herring Road, Macquarie Park

Section 75W Modification to MP10_0112 MOD1 and
MP10_0113

June 2014

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

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Report Number	V8

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Statement of Validity

Section 75W Report:

Section 75W Report prepared by:

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Applicant Details: Stamford Property Services Pty Ltd

Applicant Address: Suite 2, Level 10
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Project Summary: Modifications to the:

- Modified Concept Plan Approval No. MP10_0112 MOD 2 with regard to:
 - The car parking rates for all residential apartments, including those that cause the combined on-site GFA to exceed 46,420m². This will increase the total residential car parking spaces by 78 to a total of 715, in addition to 4 care share spaces.
- Stage 1 Project Approval No. MP10_0113 MOD 1 with regard to:
 - The car parking rates for the residential apartments. This will increase the total Stage 1 Project Approval residential car parking by 83 car parking spaces to a total of 408.

Declaration

We certify that the contents of the Section 75W report to the best of our knowledge, has been prepared as follows:

- In accordance with the requirements of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2000; and
- The information contained in this report is true in all material particulars and is not misleading.



Ian Cady (5 June 2014)



Jim Murray (5 June 2014)

Executive Summary

This report has been prepared to support a Section 75W application to modify:

1. Concept Plan Approval (MP10_0112) (as modified); and
2. Stage 1 Project Approval (MP10_0113) (as modified).

The project is located at 110-114 Herring Road, Macquarie Park, and was granted approval on 26 September 2012 pursuant to Section 75P (1)(a) of the *Environmental Planning and Assessment Act 1979* (the Act).

The Concept Plan Approval and Stage 1 Project Approval were granted concurrently. Subsequent modifications to the Concept Plan Approval and the Project Approval pursuant to Section 75W of the Act have been submitted to, and approved by, the Department of Planning and Infrastructure (DPI). They are as follows:

Concept Plan MP10_0112 MOD 1

Approved on 3 June 2013, the modification altered the approved building envelopes and resulted in a slight increase in residential FSR. The Planning Assessment Commission (PAC) whilst approving the additional FSR refused any additional parking for the approved residential floor space.

Concept Plan MP10_0112 MOD 2

Approved 28 May 2014, the modification altered the apartment mix. Car parking numbers were modified as a consequence.

Project Approval MP10_0113 MOD 1

Approved 28 May 2014, the modification was lodged concurrently with MP10_0112 MOD 2 to reconcile the Project Approval with the modifications approved under MP10_0112 MOD 1, and the new apartment mix and car parking numbers sought under the proposed Section 75W Modification to MP10_0112 MOD 2.

The following outlines the further modifications that are now proposed.

Modifications to the Project

The proposed modification seeks to alter the approved parking rates, by applying the following rates:

- 1 resident car space per apartment.
- 1 visitor car space per 10 apartments.
- 1 car space per 100sqm of commercial floor space.

This will result in an additional 78 car parking spaces, resulting in an overall total of 715 on-site car parking spaces, in addition to 4 car share spaces. The modifications include rationalisation of basement car park design, including: removal of vehicular circulation to rear of Perth, Brisbane and Sydney Buildings; provision of a single vehicular entry/exist to the basement; relocation of bin store to Level B1 with vehicular access via north-western setback and rationalisation of plant rooms, lobbies, exit stairs, storage areas and vehicular circulation routes.

To facilitate the proposed modifications for the project, modifications are sought to both the Concept Plan Approval (MP10_0112 MOD 1) and the Stage 1 Project Approval (MP10_0113) as detailed below.

Modification to Concept Plan Approval (MP10_0112 MOD 1)

The Section 75W application seeks to amend Condition C5 of the Approval; to apply a parking rate of 1 space per 1 bedroom, 2 bedroom and 3 bedroom apartments. This rate is to be applied to all residential apartments, including those that cause the combined on-site residential GFA to exceed 46,420m². This will result in 715 on-site residential parking spaces and 4 car share spaces. The parking layout on all three basement levels has been revised to reflect the proposed modification. The amended plans are submitted as part of this Section 75W application.

Modification to Stage 1 Project Approval (MP10_0113)

The Section 75W application seeks to amend Condition B1 Car Parking; to apply a parking rate of 1 car space per 1 bedroom, 2 bedroom and 3 bedroom apartments. This will result in an additional 49 residential parking spaces resulting in a total of 374 residential car parking spaces approved under the Stage 1 Project Approval. The parking layout on all three basement levels has been revised to reflect the proposed modification. The amended plans are submitted as part of this Section 75W application.

Reasons for the Proposed Modifications

The key reasons for the proposed modifications are as follows:

- The approved parking rates are lower than those provided in major Sydney metropolitan sub regional and regional centres including North Sydney, Chatswood and Parramatta.
- The proposed rates are directly consistent with those proposed to be implemented in the North Ryde Station and Epping Town Centre Urban Activation Precincts, which are fundamentally similar to the Herring Road Urban Activation Precinct, within which the site is located.
- The proposed parking rates are 13.9% below the maximum rates specified in the Ryde Development Control Plan 2007. If the proposal was lodged under Part 4 of the Act, pursuant to Section 79C(3) of the Act, Council would not be permitted to impose a more onerous requirement
- The approved parking rates are lower than comparable developments recently approved in Macquarie Park, all of which are located closer to major public transport and critical infrastructure than the site.
- The 2011 Journey to Work Data demonstrates that accessibility to public transport has a greater influence on the use of non-car travel modes than the suppression of residential car parking.
- The proposed parking rates will ensure that all parking demands associated with the development are met on-site, with no reliance on on-street parking.
- The traffic generation of the development will have no measurable impact on the existing operation of key intersections.

Introduction

This report has been prepared to support a Section 75W application to modify the:

- Concept Plan Approval (MP10_0112) (as modified); and
- Stage 1 Project Approval (MP10_0113) (as modified).

The project is located at 110-114 Herring Road, Macquarie Park, and was granted approval on 26 September 2012 pursuant to Section 75P (1)(a) of the *Environmental Planning and Assessment Act 1979* (the Act).

The Concept Plan Approval and Stage 1 Project Approval were granted concurrently. Subsequent modifications to the Concept Plan Approval and the Project Approval pursuant to Section 75W of the Act have been submitted to, and approved by, the Department of Planning and Infrastructure (DPI).

This application seeks to modify the Concept Plan Approval and the Stage 1 Project Approval to provide parking to all the approved residential apartments at the rate of 1 space per apartment.

1.1 PROJECT HISTORY

The previous approvals and current modifications for the site are as follows:

- Concept Plan Approval (MP10_0112) – 26 September 2012;
- Stage 1 Project Approval (MP10_0113) – 26 September 2012;
- Modified Concept Approval (MP10_0112 MOD 1) – 3 June 2013;
- Modified Concept Approval (MP10_0112 MOD 1) – 3 June 2013;
- Modified Concept Approval (MP10_0112 MOD 2) – 28 May 2014;
- Modified Project Approval (MP10_0113MOD 1) – 28 May 2014;

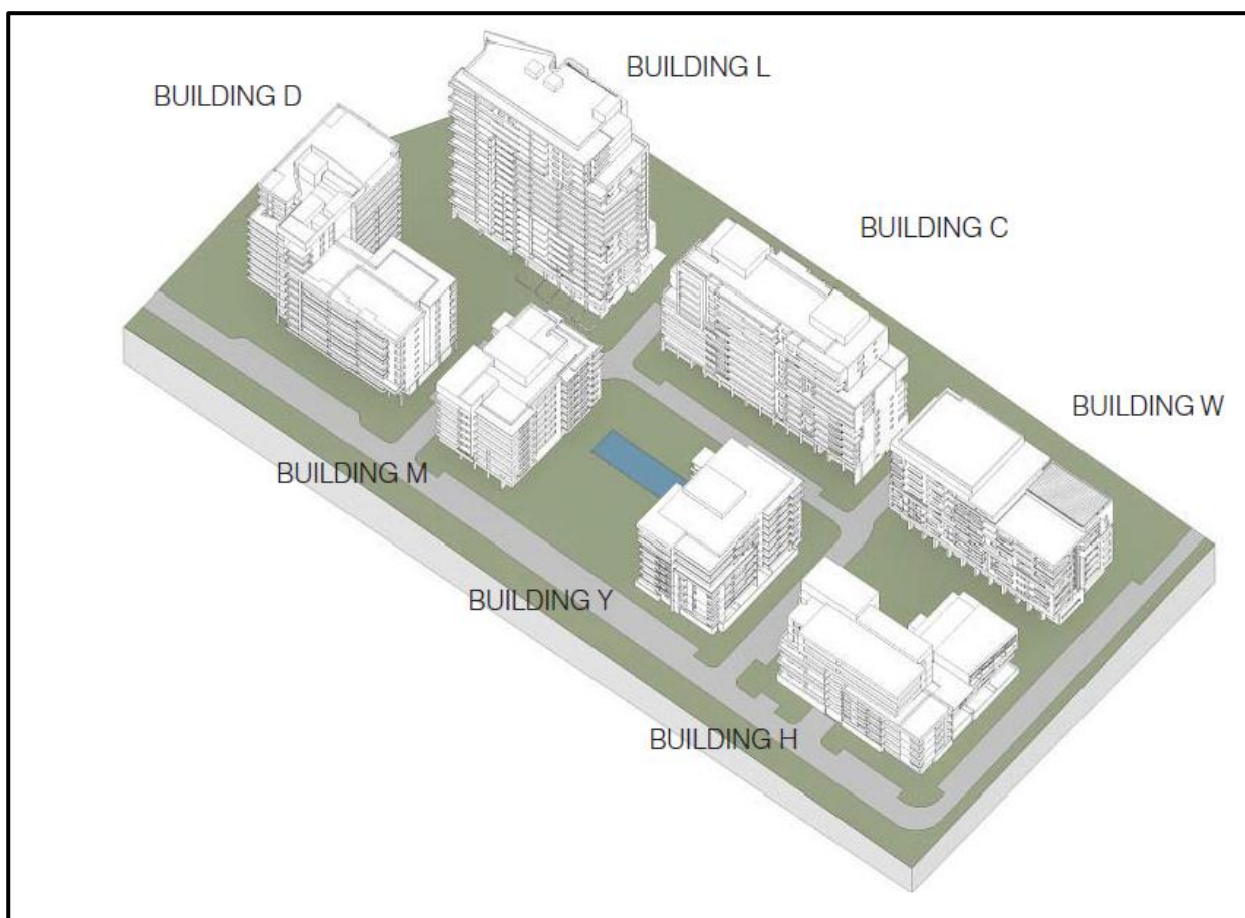
These instruments of approval and proposed modifications are summarised in turn below.

Concept Plan Approval (MP10_0112) – 26 September 2012

The Concept Plan Approval, as originally approved, authorised:

- Use of the site for residential apartments, retail, commercial premises; with basement level and at grade car parking;
- Publicly accessible open space and through site links;
- Road works and pedestrian pathways;
- Indicative building envelopes for 7 separate buildings with a maximum height of RL 138.45; and
- A maximum FSR 2.13:1 and a maximum GFA of 47,650m².

FIGURE 1 – MP10_0112 CONCEPT PLAN (PREPARED BY AJ + C)



Stage 1 Project Approval (MP10_0113) – 26 September 2012

The Stage 1 Project Approval authorised mixed use residential, retail and commercial development incorporating:

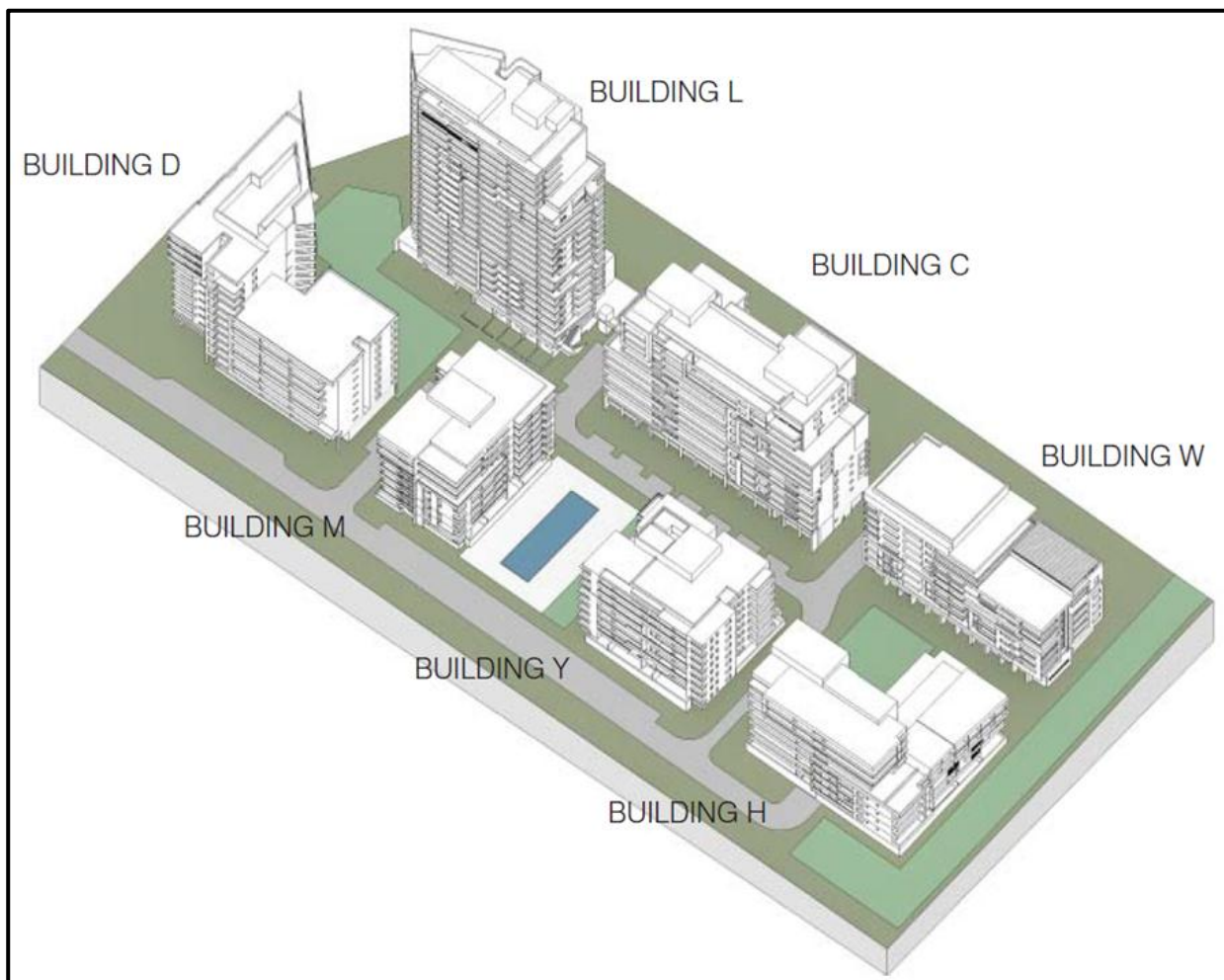
- Demolition and excavation.
- Construction of four residential buildings (Buildings H, W, C and Y), retail and commercial floor space.
- Basement car parking.
- Landscaping and public domain works around the buildings, including lift and stairs to Epping Road.
- Publicly accessible open space and through site links.
- Road works.
- Reduction of the height of Building C from 15 storeys (RL122.25m) to a maximum of 13 storeys (RL116.25m).
- Reduction of the height of the 13 storey portion of Building W (RL115.05m) to 11 storeys (RL105.95m).
- Provision of a minimum of 1,665m² central park publicly accessible open space and through site links.

Modified Concept Plan Approval (MP10_0112 MOD 1) – 3 June 2013

The Concept Plan Approval, as modified, authorised:

- Use of the site for residential apartments, retail, commercial and basement level and at grade car parking.
- Publicly accessible open space and landscaped areas.
- Internal and public roads.
- Indicative building envelopes for 7 separate buildings with a maximum height of RL 144.650.
- A maximum FSR 2.28:1 and a maximum GFA of 51,139m².
- A minimum of 1,210m² of non-residential GFA.
- Revised building envelopes for Buildings H, W, C and Y resulting in additional GFA (refer to Figure 2 overleaf).

FIGURE 2 – MP10_0112 MOD 1 CONCEPT PLAN (PREPARED BY AJ + C)



Modified Concept Plan Approval (MP10_0112 MOD 2) – 5 May 2014

The Concept Approval as modified authorised:

- Alterations to the apartment mix, and consequential modifications to car parking numbers;
- New building names; and
- Rectification of typographical errors contained on the instrument of approval.

Modified Stage 1 Project Approval (MP10_0113 MOD 1) – 5 May 2014

The Stage 1 Project Approval as modified authorised:

- Reconciliation of the Stage 1 Project Approval with the modifications approved under MP10_0112 MOD 1;
- Alterations to the apartment mix, and consequential modifications to the car parking numbers and façade design; and
- New building names.

1.2 PROPOSED MODIFICATIONS

The Proponent is seeking modifications to the Concept Approval and the Stage 1 Project Approval. The proposed modifications are summarised below.

Modification to Concept Plan Approval (MP10_0112 MOD 2)

The Section 75W application seeks to amend Condition C5 of the Approval; to apply a parking rate of 1 space per 1 bedroom, 2 bedroom and 3 bedroom apartments. This rate is to be applied to all residential apartments, including those that cause the combined on-site residential GFA to exceed 46,420m².

The proposed modification will provide an additional 78 residential car parking spaces and will increase the total on-site car parking provision from 637 to 715 residential car parking spaces, in addition of 4 car share spaces.

Modification to Stage 1 Project Approval (MP10_0113 MOD 1)

The Section 75W application seeks to amend Condition B1 Car Parking; to apply a parking rate of 1 space per 1 bedroom, 2 bedroom and 3 bedroom apartments to align with the proposed modifications to the Concept Plan Approval.

The proposed modification will increase the total on-site car parking provision for the Stage 1 Project Approval from 325 to 408 residential car parking spaces.

This will include rationalisation of basement car park design, including: removal of vehicular circulation to rear of Perth, Brisbane and Sydney Buildings; provision of a single vehicular entry/exist to the basement; relocation of bin store to Level B1 with vehicular access via north-western setback and rationalisation of plant rooms, lobbies, exit stairs, storage areas and vehicular circulation routes.

1.3 SUPPORTING DOCUMENTATION

The proposed modifications to the Concept Approval and the Stage 1 Project Approval are illustrated on the architectural plans prepared by AJ+C Architects, included at **Appendix C**. The plans are proposed to replace those originally approved under Condition A2 of both the Concept Approval and the Stage 1 Project Approval.

The proposed modifications are also supported by a traffic and parking analysis prepared by Traffix submitted as **Appendix A** and summarised under Section 5.3 of this report.

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2 Statutory Framework

2.1 PART 3A TRANSITIONAL PROJECTS

The project was declared to be a project to which Part 3A of the Act applies on 1 December 2008.

Following the repeal of Part 3A of the Act on 1 October 2011, the project continues to be subject to Part 3A of the Act pursuant to the transitional provisions provided in Schedule 6A of the Act as follows:

Transitional arrangements—repeal of Part 3A

- 1) *The following are, subject to this Schedule, transitional Part 3A projects:*
 - (a) *an approved project (whether approved before or after the repeal of Part 3A),*
 - (b) *a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),*
 - (c) *a project for which environmental assessment requirements for approval to carry out the project, or for approval of a concept plan for the project, were last notified or adopted within 2 years before the relevant Part 3A repeal date (unless the environmental assessment is not duly submitted on or before 30 November 2012 or on or before such later day as the Director-General may allow by notice in writing to the proponent),*
 - (d) *a project for which an environmental assessment (whether for approval to carry out the project or for approval of a concept plan for the project) was duly submitted before the relevant Part 3A repeal date.*

As the project is the subject of a Project Approval and a Concept Plan Approval, Part 3A of the Act continues to apply.

2.2 SECTION 75W OF THE ACT

Pursuant to Part 3A of the Act (as in force prior to its repeal), Section 75W provides that the proponent may request the Minister to modify the Minister's approval for a project (including a project approval or a concept plan approval). Such modifications may include:

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

Section 75W does not limit the circumstances in which the Minister may modify a determination made under Division 3 in connection with the approval of a concept plan.

Further, clause 3C of Schedule 6A of the Act provides that s75W continues to apply for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A.

Included at **Appendix B** is legal advice from Norton Rose Australia dated 26 November 2012 in relation to the modifications approved for the Concept Plan, and their consistency with the provisions of s75W. As the proposed modifications to the Project Approval reflect the modified Concept Plan, the advice from Norton Rose, reproduced overleaf, is considered to still apply.

“As you would be aware, the requirements of s75W of the Environmental Planning & Assessment Act 1979 (EP&A Act) have been considered by the Courts on several occasions. The Land and Environment Court has observed that the language of s75W is not constrained by the qualification (contained in s96 of the EP&A Act) that the development as modified be “substantially the same” as the development already approved (Williams v Minister for Planning (2009) 164 LGERA 204). In other words, the power under s75W to modify is broader than the test under s96. Biscoe J expressed the test another way, by stating that s75W does not contemplate a “radical transformation” of the terms of an existing approval (Williams v Minister).

The Court of Appeal subsequently cautioned against seeking to use any descriptive phrase to substitute for or explain the statutory language in s75W. That Court has noted that “the fact that there are no express standards to be applied in considering whether a particular request falls within the terms of the section itself gives rise to an inference that no essential precondition to the consideration of a request was intended” (Barrick Australia Ltd v Williams (2009) 74 NSWLR 733 at 401).”

We submit that the modifications proposed by this application do not constitute a ‘*radical transformation*’ to either the Concept Plan Approval or the Stage 1 Project Approval for the following reasons:

- The proposed use is the same as that approved under the Concept Plan Approval and the Stage 1 Project Approval.
- There are no variations proposed to the building envelopes as approved under the Concept Plan Approval (as modified on 3 June 2013) and the Stage 1 Project Approval.
- There will be no increase in the gross floor area or floor space ratio approved under the Concept Plan Approval (as modified on 3 June 2013).
- There will be no reduction of public open space on the site.

This report:

- Demonstrates that the proposed modifications comply with the relevant environmental planning instruments and policies.
- Addresses environmental impacts that may occur as a result of the proposed modifications.
- Justifies how the proposed modifications are consistent with the provisions of s75W of the Act.

2.3 HERRING ROAD URBAN ACTIVATION PRECINCT (UAP)

The NSW State Government implemented the Urban Activation Precinct (UAP) program in March 2013. The purpose of the UAP program is to deliver a higher percentage of homes in locations with good access to infrastructure, transport, services and jobs. The Herring Road UAP was one of eight UAPs in Sydney announced by the State Government in March 2013.

FIGURE 3 – HERRING ROAD UAP – INDICATIVE LAYOUT PLAN



The Herring Road UAP is currently being prepared. The Department of Planning and Infrastructure (DPI) has established a working group with staff from Ryde Council and key State agencies. Investigations are on-going to refine the scope of the precinct and the necessary planning studies. Once a planning framework has been prepared, the studies will be the subject of public consultation so the community can have a say on the future of their suburb.

A Community Reference Group has been established to receive briefings and provide feedback on the details of the investigations as well as sharing information with the wider community. Council has also been asked to nominate councillors and staff to participate in a steering group.

A Community Reference Group workshop was held on 5 June 2013. The workshop outlined the key principles for the UAP Structure Plan namely:

- Improved traffic movement, circulation and connectivity;
- Provide a mix of uses across the UAP;
- Improve access to the network of open space; and
- Distribution of heights and solar impacts;

The UAP Structure Plan tabled at the workshop contained the following development controls for the site.

- Land use zone – B4 Mixed Use;
- Maximum building height – 28m – 77m; and
- Floor space ratio – 2.5:1.

Notably the UAP adopts the building massing as approved for this project, but increases the FSR and height beyond what is approved and proposed on the site under the Concept Plan Approval and Stage 1 Project Approval.

3 The Proposed Modifications

3.1 MODIFICATIONS TO THE PROJECT

The proposed modifications involve the application of the following car parking rates:

- 1 resident car space per apartment.
 - 1 visitor car space per 10 apartments.
 - 1 car space per 100sqm of commercial floor space.
- The revised rate is to apply to the entire development, including the residential apartments that cause the combined on-site residential GFA to exceed 46,420m.
 - This will result in the total number of residential parking spaces increasing from 637 spaces to 715 spaces and 4 car share spaces.

The modifications include rationalisation of basement car park design, including: removal of vehicular circulation to rear of Perth, Brisbane and Sydney Buildings; provision of a single vehicular entry/exist to the basement; relocation of bin store to Level B1 with access via north-western setback and rationalisation of plant rooms, lobbies, exit stairs, storage areas and vehicular circulation routes.

To facilitate the proposed residential parking increase, modifications are sought to:

1. Concept Plan Approval (MP10_0112 MOD 1), as modified on 28 May 2014; and
2. Stage 1 Project Approval (MP10_0113), as modified on 28 May 2014.

The detail is outlined below.

3.2 MODIFICATIONS TO THE CONCEPT APPROVAL (MP10_0112 MOD 2)

As stated above the proposed modification seeks to apply the following parking rates to the entire Concept Plan (as modified):

- 1 resident car space per apartment.
- 1 visitor car space per 10 apartments.
- 1 car space per 100sqm of commercial floor space.

The following table provides a comparative analysis of the approved and proposed car parking rate and numbers.

TABLE 1 – COMPARISON OF APPROVED AND PROPOSED PARKING RATES

	PROPOSED	APPROVED RATE	APPROVED NUMBER	PROPOSED RATE	PROPOSED NUMBER
1 BED APT	340	0.6 / APT	204	1.0 / APT	340
2 BED APT	279	0.9 / APT	251	1.0 / APT	279
3 BED APT	20	1.4 / APT	28	1.0 / APT	20
VISITOR	N/A	0.2 / APT	128	0.1 / APT	64
COMMERCIAL	1,200	1 / 46 SQM	26	1/ 100 SQM	12
TOTAL	639 APTS + 12,000SQM		637		715 (+4 car share)

(source: Traffix 10/2013)

Condition A2

Condition A2 is proposed to be modified. Text proposed to be deleted is indicated by 'strike through' text and text proposed to be added is indicated by bold text.

Development in Accordance with the Plans and Documentation

A2 *The development shall be undertaken generally in accordance with...*

- *the Environmental Assessment prepared by JBA Planning (dated June 2011), except where amended by:*
 - *the Preferred Project Report (incorporating Response to Submissions) prepared by Urbis Pty Ltd (dated February 2012) including all associated documents and reports; and*
 - *the Section 75W Modification Application prepared by Urbis Pty Ltd dated January 2013; including all associated documents and reports; and*
 - ***the Section 75W Modification Application prepared by Urbis Pty Ltd dated January 2014, including all associated documents and reports; and***
- *the Statement of Commitments prepared by Urbis Pty Ltd contained in the Section 75W Modification Application prepared by Urbis Pty Ltd dated ~~January 2013~~ **January 2014**; and*
- *the following drawings [amongst others]:*

ARCHITECTURAL DRAWINGS			
Drawing No.	Revision	Name on Plan	Date
DA0000	D [G]	Cover Sheet	22.11.12 [26.05.14]
DA2001	D [F]	Level B1 Plan	22.11.12 [26.05.14]
DA2002	D [F]	Level B2 Plan	22.11.12 [26.05.14]
DA2003	D [F]	Level B3 Plan	22.11.12 [26.05.14]
DA2100	D [F]	Ground Level Plan	22.11.12 [26.05.14]
DA2101	D [F]	Level 1 Plan	22.11.12 [26.05.14]
DA2102	D [F]	Level 2 Plan	22.11.12 [26.05.14]
DA3110	D [F]	Section 1	22.11.12 [26.05.14]

Condition C5

Condition C5 is proposed to be modified. Text proposed to be deleted is indicated by 'strike through' text and text proposed to be added is indicated by bold text.

Car Parking

C5 *Future Development Applications shall demonstrate:*

- (a) *For residential apartments ~~having a combined GFA of up to 46,420m²~~, on-site car parking must be provided at **the following rates** compliant with the Roads and Maritime Services (formerly Roads and Traffic Authority) Guide to Traffic ~~Generating Development's requirements, which are as follows:~~*

*(a) ~~0.6~~ **1** spaces per 1 bedroom apartment;*

*(b) ~~0.9~~ **1** spaces per 2 bedroom apartment;*

*(c) ~~1.4~~ **1** spaces per 3 bedroom apartments;*

*(d) 1 space per ~~5~~ **10** apartments for visitors; and*

- (b) ~~For any residential apartments that cause the combined GFA of residential apartments on-site to exceed 46,420m² there must be no provision for parking spaces, other than visitor parking at the rate of 1 space per 5 apartments.~~*

- (c) For commercial on-site car parking must be provided at 1 space per ~~46~~ **100**m² of commercial GFA.*

3.3 MODIFICATIONS TO THE STAGE 1 PROJECT APPROVAL (MP10_0113 MOD 1)

As stated above the proposed modification seeks to apply the parking rate of 1 space per apartment, to all to the apartments approved under the Stage 1 Project Approval (as modified). The following table provides a comparative analysis of the approved and proposed car parking rate and numbers.

TABLE 2 – COMPARISON OF APPROVED AND PROPOSED PARKING RATES

APARTMENT TYPE	AMOUNT PROPOSED	CONCEPT APPROVAL (MOD 1) RATE	PROPOSED MODIFIED RATE
1 BED	165	0.6 / Apt	1 / Apt
2 BED	175	0.9 / Apt	1 / Apt
3 BED	0	1.4 / Apt	1 / Apt
Visitor	-	1 / 5 Apts	1 / 10 Apts
Commercial	-	1 / 46sqm	1 / 100sqm
TOTAL	340	325	374

Condition A2 Development in Accordance with Plans and Documentation

Condition A2 is proposed to be modified. Text proposed to be deleted is indicated by 'strike through' text and text proposed to be added is indicated by bold text.

The Development shall be undertaken in accordance with the Environmental Assessment, except where amended by the Preferred Project Report and Response to PPR Submissions including all associated documents and reports; the Statement of Commitments prepared by Urbis Pty Ltd; and the following drawings [amongst others]

ARCHITECTURAL DRAWINGS			
Drawing No.	Revision	Name on Plan	Date
DA0000	D [G]	Cover Sheet	22.11.12 [26.05.14]
DA2001	D [F]	Level B1 Plan	22.11.12 [26.05.14]
DA2002	D [F]	Level B2 Plan	22.11.12 [26.05.14]
DA2003	D [F]	Level B3 Plan	22.11.12 [26.05.14]
DA2100	D [F]	Ground Level Plan	22.11.12 [26.05.14]
DA2101	D [F]	Level 1 Plan	22.11.12 [26.05.14]
DA2102	D [F]	Level 2 Plan	22.11.12 [26.05.14]
DA3110	D [F]	Section 1	22.11.12 [26.05.14]

B1 Design Modifications

Condition B1, sub heading Car Parking, is proposed to be modified. Text proposed to be deleted is indicated by 'strike through' text and text proposed to be added is indicated by bold text.

Car Parking

The provision of on-site car parking shall be in accordance with the following rates:

- ~~0.6~~ **1** spaces per 1 bedroom apartment;*
- ~~0.9~~ **1** spaces per 2 bedroom apartment;*
- ~~1.4~~ **1** spaces per 3 bedroom apartment;*
- 1** space per ~~5~~ **10** for visitors; and*
- 1** space per ~~40~~ **100m²** of commercial GFA;*

4 Reasons for the Proposed Modifications

The key reasons for the proposed modifications are:

1. The proposed modifications comply with the Council's parking requirements. That is, the proposed total of 715 (+ 4 car share) on-site car parking spaces is 13.9% less than the maximum permissible under the City of Ryde Development Control Plan 2010.
2. The proposed parking rate is consistent with relevant and comparable developments recently approved within Macquarie Park (see Section 5.3).
2. The proposed parking rate is consistent with the rates recently recommended in the finalisation reports for the North Ryde Station and Epping Town Centre UAPs.

5 Environmental Assessment

5.1 CONSISTENCY WITH CURRENT APPROVALS

The modifications proposed within this application do not constitute a '*radical transformation*' to the Concept Plan Approval or the Stage 1 Project Approval for the following reasons:

- The proposed use is the same as that currently approved under the Concept Plan Approval and Stage 1 Project Approval.
- There is no change to apartment numbers and mix as approved under the Concept Plan Approval as modified on 3 June 2013 (MP10_0112 MOD 1).
- There is no increase to the FSR and GFA approved by the Concept Plan Approval as modified on 3 June 2013 (MP10_0112 MOD1).
- There is no reduction in public open space on the site, and public open space will be provided in accordance with the central park area provision conditions of the Concept Plan Approval (MP10_0112 MOD1).

The proposed modifications are consistent with the provisions of S75W as outlined in Section 2.2 of this report. The proponent has provided legal advice from Norton Rose Australia attached at **Appendix A** that justifies the proposals consistency with the provisions of s75W of the Act.

5.2 ENVIRONMENTAL PLANNING INSTRUMENTS

The proposed modifications have been considered against the relevant provisions contained in the following Environmental Planning Instruments.

5.2.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The proposed modifications are considered to be consistent with the Objects of the Act. The proposed modifications to the Concept Plan Approval and Stage 1 Project Approval pay due regard to the environmental sensitivities on the site, yet will provide for the future economic use of the land for residential purposes.

5.2.2 RYDE DEVELOPMENT CONTROL PLAN 2010

Part 9.3 (2.2) of the Ryde DCP 2010 states that car parking for high density residential flat buildings is to be provided in accordance with the following minimum and maximum requirements:

- 0.6 to 1 space / one bedroom dwelling
- 0.9 to 1.2 spaces / two bedroom dwelling
- 1.4 to 1.6 spaces / three bedroom dwelling
- 1 visitor space / 5 dwellings

Condition C5 (b) of the Concept Plan prohibits the provision of on-site car parking to any residential apartments that cause the residential GFA to exceed 46,420m². This condition requires the development to be inconsistent with the requirements of the Ryde DCP 2010, which requires a minimum car parking provision for all residential apartments.

Table 3 below demonstrates that the proposed modification to the parking rates and the overall total of on-site car parking is consistent with the quantum of car parking required under the Ryde DCP 2010.

TABLE 3 – COMPARISON OF APPROVED AND PROPOSED RESIDENTIAL CAR PARKING RATES FOR THE CONCEPT PLAN

TYPE	PAC APPROVED RATE	MIN. DCP RATE	PROPOSED RATE	MAX. DCP RATE
1 Bed	0.6 / apt	0.6 / apt	1 / apt	1 / apt
2 Bed	0.9 / apt	0.9 / apt	1 / apt	1.2 / apt
3 Bed	1.4 / apt	1.4 / apt	1 / apt	1.6 / apt
Visitor	0.2 / apt	0.2 / apt	0.1 / apt	0.2 / apt
TOTAL	637	483	715 (+ 4 car share)	830

While the Minister is not bound by Section 79C of the Act when determining modification applications concerning 'transitional Part3 A projects', if the project was not a transitional Part 3A project, and was lodged as a DA to Council, the following provisions of Section 79C would apply:

(3A) **Development control plans**

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) *if those provisions set standards with respect to an aspect of the development and **the development application complies with those standards—is not to require more onerous standards** with respect to that aspect of the development, and*
(our emphasis)

As the proposed parking supply is less than the maximum specified under Council's DCP 2007, Council would not be permitted to impose a more onerous maximum if the application were lodged as a DA under Part 4.

5.3 PARKING AND TRAFFIC ANALYSIS

Traffic transport and traffic planners have prepared a submission to support the proposed modification to the parking rates. It is attached as **Appendix A**. In summary, Traffix consider the proposed parking rates to be appropriate for the following reasons:

- The proposed 715 spaces complies with the Council's DCP 2010 parking rates and represents a 13.9% reduction in the maximum permissible provision under the DCP.

The approved parking rates are less than the approved parking rates for recent comparable development approvals within Macquarie Park that are located closer to major public transport and critical infrastructure than the subject development as demonstrated in Table 4 and Figure 4.

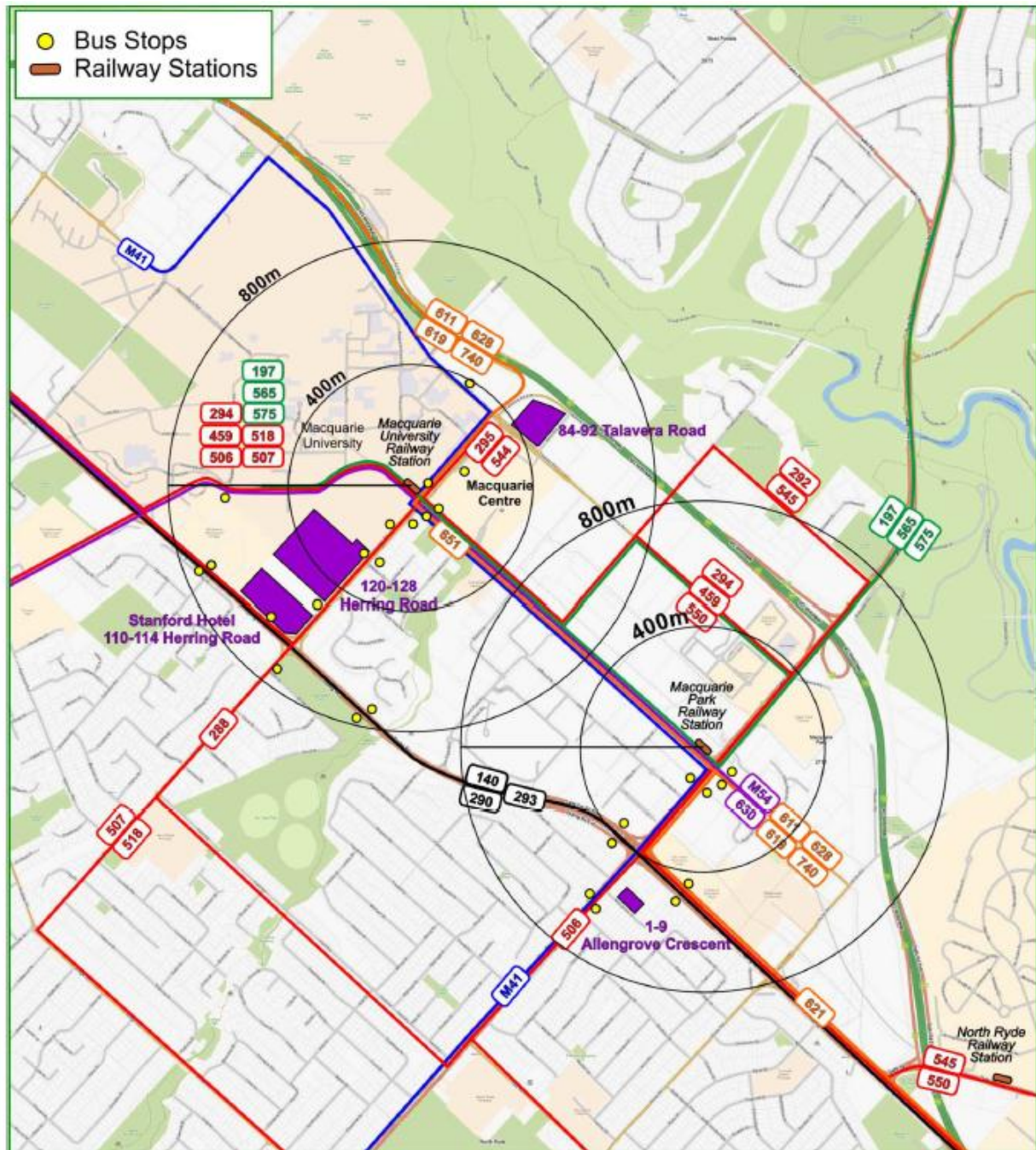
TABLE 4 – COMPARISON OF APPROVED COMPARABLE DEVELOPMENTS WITHIN MACQUARIE PARK

TYPE	84 – 92 TALAVERA ROAD	1 – 9 ALLENGROVE ROAD	120 – 128 HERRING ROAD	110 – 114 HERRING ROAD
Consent Authority	JRPP (2012)	Land & Environment Court (2012)	Minister/DoPI (2011)	PAC (2012)
One Bedroom Rate	1.0 Spaces/Unit	1.0 Spaces/Unit	1.0 Spaces/Unit	0.6 Spaces/Unit
Two Bedroom Rate	1.2 Spaces/Unit	1.2 Spaces/Unit	1.0 Spaces/Unit	0.9 Spaces/Unit
Three Bedroom Rate	NA	1.6 Spaces/Unit	1.6 Spaces/Unit	1.4 spaces per unit
Total Approved Parking	258	394*	574**	628
Council Maximum DCP Provision	258	394*	615**	833
% Variation from DCP Maximum	0%	0%	-6%	-24%
Walking Distance from Rail Station	400m	400m	260m	550

* Based on indicative yields established in the TMAP assessment submitted as part of the EA

** The parking provision has been established through indicative yields documented in the DG EA Report (source: Traffix 10/2013)

FIGURE 4 – COMPARISON OF SITE LOCATIONS VERSUS PROXIMITY TO PUBLIC TRANSPORT



(source: Traffix 10/2013)

- The approved parking rates are lower than those permitted in major Sydney Metro subregional and regional centres, including North Sydney, Chatswood and Parramatta, all of which provide a greater range of services and accessibility to public transport than the Macquarie Park corridor.
- While final planning controls are yet to be gazetted, the State Government's 'Finalisation Report' for Epping Town Centre Urban Activation Precinct (November 2013) recommends the proposed parking rate of 1 space per dwelling, 1 visitor space per 10 dwellings and 1 space 100sqm of retail GFA as maximums, as does the Draft DCP for North Ryde Station Urban Activation Precinct (December 2013). While controls have not yet been proposed for the Herring Road UAP, within which the site is located, such rates can be anticipated as this UAP is fundamentally similar to, and is located immediately between the Epping and North Ryde Station UAPs.

- 2011 Journey to Work data demonstrates that car driver trips in locations within 500m of a rail station have reduced considerably since 2006. Analysis demonstrates that the provision of parking alone will not result in the increased car use in peak hours. It is therefore reasonable to conclude that the accessibility of public transport has greater influence on the use of no-car travel modes than the suppression of residential car parking.
- The provision of parking in accordance with the rates proposed will therefore ensure that all parking demands associated with the development are met on-site, with no reliance on on-street parking, in the knowledge that the availability of public transport will ensure that this is used for the majority of work-related trips. In this context, the parking that is provided will relate to car use for the broad range of other trip purposes that are not well served by public transport, many of which occur during the evening and on weekends.
- The proposal will have an acceptable impact on the existing operation of the surrounding road network and key intersections for the following reasons:
 - The site is currently zoned B4 Mixed Use and hence permits a number of varied land uses including commercial premises, recreational facilities, entertainment facilities, resisted clubs and more. All of these land uses would be considered higher traffic generating uses than high density residential.

The analysis undertaken by Traffix demonstrates that a complying commercial development would result in a substantial increase in traffic generation to that now proposed, within the order of 236 additional vehicle trips per hour during the morning peak and 172 vehicle trips per hour during the evening peak.

- The traffic impacts of the Concept Plan were assessed using the Council's Paramics micro simulation model. An indicative residential traffic generation of approximately 180 veh/hr during the AM and PM peak periods was adopted for the assessment. Traffic generation is a function of apartment yield not parking supply. The assessment concluded that the "the future traffic will have no measurable impact on the existing operation of key intersections". The assessment was adopted by Council and endorsed by the Roads and Maritime Services (RMS).
- The PAC approved Concept Plan results in a peak residential traffic generation of approximately 155 veh/hr, which will have a reduced impact to the original proposal.
- In August 2013, the RMS revised their traffic generation rates for high density residential development close to public transport. Application of the traffic generation rates published by the RMS in May 2013 predicts a future traffic generation of between 118-123veh/hr during the AM peak period and 94-97veh/hr during the PM peak period. This level of generation is considerably lower than the 180veh/hr previously assessed under the Concept Plan application and the inherent traffic generation approved by the PAC of 155veh/hr. Accordingly, further additional improvements in the operation of key intersections in the locality may be expected compared with the previous assessment, notwithstanding that this was acceptable.
- Since the approval of the Concept Plan Application in 2012, a number of infrastructure works have been undertaken with the Macquarie Park precinct which has changed employee and residential travel patterns in the locality. In particular, new on and off ramps to the M2 motorway have been constructed at Christie Road and at the intersection of Talavera Road with Herring Road. The construction of these ramps now provides greater accessibility to the Macquarie Park and will, over time, reduce the need for resident and employee vehicles to utilise Epping Road.

Accordingly, whilst the assessment undertaken during the Concept Plan application stage demonstrated that the development could be accommodated within the existing road network (a conclusion reached through analysis using Council's traffic model), the recent infrastructure upgrades would result in improved network operation.

6 Conclusion

This Section 75W modification seeks to impose a car parking rate of 1 space per apartment 1 visitor space per 10 apartments and 1 space per 100sqm of commercial GFA across the Concept Plan and Project Approval. The proposed modification will increase the total number of residential car parking spaces on-site from 637 to 715 and 4 car share spaces. The proposed modifications are considered acceptable for the following reasons:

- The approved parking rates are lower than those provided in major Sydney metropolitan sub regional and regional centres including North Sydney, Chatswood and Parramatta.
- The proposed rates are directly consistent with those proposed to be implemented in the North Ryde Station and Epping Town Centre Urban Activation Precincts, which are fundamentally similar to the Herring Road Urban Activation Precinct, within which the site is located.
- The proposed parking rates are 13.9% below the maximum rates specified in the Ryde Development Control Plan 2007. If the proposal was lodged under Part 4 of the Act, pursuant to Section 79C(3) of the Act, Council would not be permitted to impose a more onerous maximum
- The approved parking rates are lower than comparable developments recently approved in Macquarie Park, all of which are located closer to major public transport and critical infrastructure than the site.
- The 2011 Journey to Work Data demonstrates that accessibility to public transport has a greater influence on the use of non-car travel modes than the suppression of residential car parking.
- The proposed parking rates will ensure that all parking demands associated with the development are met on-site, with no reliance on on-street parking.
- The traffic generation of the development will have no measurable impact on the existing operation of key intersections.

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Appendix A

Traffic and Parking Analysis prepared by Traffix

Appendix B

Legal Advice – Norton Rose

Appendix C

Modified Architectural Drawings – AJ+C Architects

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