NSW GOVERNMENT | Planning

MAJOR PROJECT ASSESSMENT:

Concept Plan (MP 09_0195)
Project Application - Staged Subdivision (MP 09_0217)
Project Application - Building A (MP 09_0218)

Residential Development at 120-128 Herring Road, Macquarie Park

Proposal by Urbis Pty Ltd on behalf of Lipman Properties Pty Ltd

Director-General's Environmental Assessment Report

Section 75I of the Environmental Planning and Assessment Act 1979

January 2011

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning
EA	Environmental Assessment
EP&A Act	*Environmental Planning and Assessment Act* 1979
EP&A Regulation	*Environmental Planning and Assessment Regulation* 2000
EPI	Environmental Planning Instrument
MD SEPP	*State Environmental Planning Policy (Major Development)* 2005
Minister	Minister for Planning
PAC	Planning Assessment Commission
Part 3A	Part 3A of the *Environmental Planning and Assessment Act* 1979
PEA	Preliminary Environmental Assessment
PFM	Planning Focus Meeting
PPR	Preferred Project Report
Proponent	Lipman Properties Pty Ltd.
RtS	Response to Submissions

Cover Image: Proposed Building A by Turner and Associates

EXECUTIVE SUMMARY

Urbis Pty Ltd, on behalf of Lipman Properties Pty Ltd (the Proponent) is seeking approval for a Concept Plan and 2 x Project Applications for a mixed use residential/retail development and staged subdivision with associated parking and public domain works.

The site is situated in the Ryde Council LGA on land which forms part of the existing Morling Baptist Theological College located in Herring Road, Macquarie Park.

The proposal as exhibited sought approval for:

- Concept Plan (MP09_0195) for a mixed use residential/retail development comprising 5x12 storey building envelopes (557 apartments) with basement carparking (667 car spaces), road works and landscaping;
- Project Application (MP09_0217) for staged subdivision into 7 allotments comprising 5 residential allotments and 2 road allotments for the access road; and
- Project Application (MP09_0218) for the construction of 1x12 storey mixed use residential/retail building (Building A) providing 123 apartments, ground floor retail space, basement carparking for 152 cars and construction of a new local access road.

The proposal was exhibited for a 30 day period from 26 May until 25 June 2010 and the Department received 6 submissions from Government agencies (including Ryde Council) and 8 public submissions (including Macquarie University) to the proposal. Key issues included; height, bulk and scale; traffic and parking; connectivity of the site to its surrounds; riparian management; and residential amenity.

On 7 October 2010, a PPR was submitted which proposed changes to the EA including:

- Amended 12 storey building heights to a range of 9, 12 and 15 storeys;
- Reduced basement parking by 101 spaces from 768 to 667 car parking spaces;
- Modified setback and re-orientation of Building D to be situated outside of the University Creek riparian corridor vegetation buffer;
- Re-designed the bio-swale to be located outside the riparian corridor;
- Re-located the public pedestrian/cycleway link away from environmentally sensitive riparian corridor along University Creek at the rear of the site to the centre of the site;
- Re-orientated building footprints to increase building separation and improved amenity/SEPP 65 compliance;
- A range of building performance measures to achieve a 4 Star Green Star energy efficiency rating; and
- An on-site offset planting strategy to achieve a net increase in trees and shrubs.

The Capital Investment Value (CIV) of the project is estimated at $150.5 million and will provide 200 full time construction jobs and 10-20 on-going jobs.

The site is zoned "Mixed Use (B4)" under the recently gazetted Ryde LEP 2010, and "Multi-Unit development" and "Business Premises" (retail) are permissible with consent.

The proposed development is strategically located for high density residential development being in close proximity to public transport, services and employment opportunities, and will provide a valuable contribution to housing in Macquarie Park. The proposed design makes maximum use of the site while mitigating environmental impacts. The Department is satisfied that the site is suitable for the proposed development and that the project will provide environmental, social and economic benefits to the region. The proposed application is supported subject to a reduction in height for Building B from 15 to 12 storeys and other conditions of approval.

CONTENTS

1. BACKGROUND

1.1. Site Description

The site is located at 120-128 Herring Road, Macquarie Park within the Ryde Council LGA, approximately 14 km north-west of the Sydney CBD and 6 km north-west of Chatswood CBD. The site is in close proximity to Macquarie University, the Macquarie Shopping Centre, the Macquarie University Railway Station, Epping Road and Lane Cove National Park (refer **Figures 1** and **2** below). The site comprises part of the existing Morling Theological College, and has a total area of 17,253 sqm.

Figure 1: Regional Context – aerial looking south-east to Sydney CBD (Source: EA May 2010)

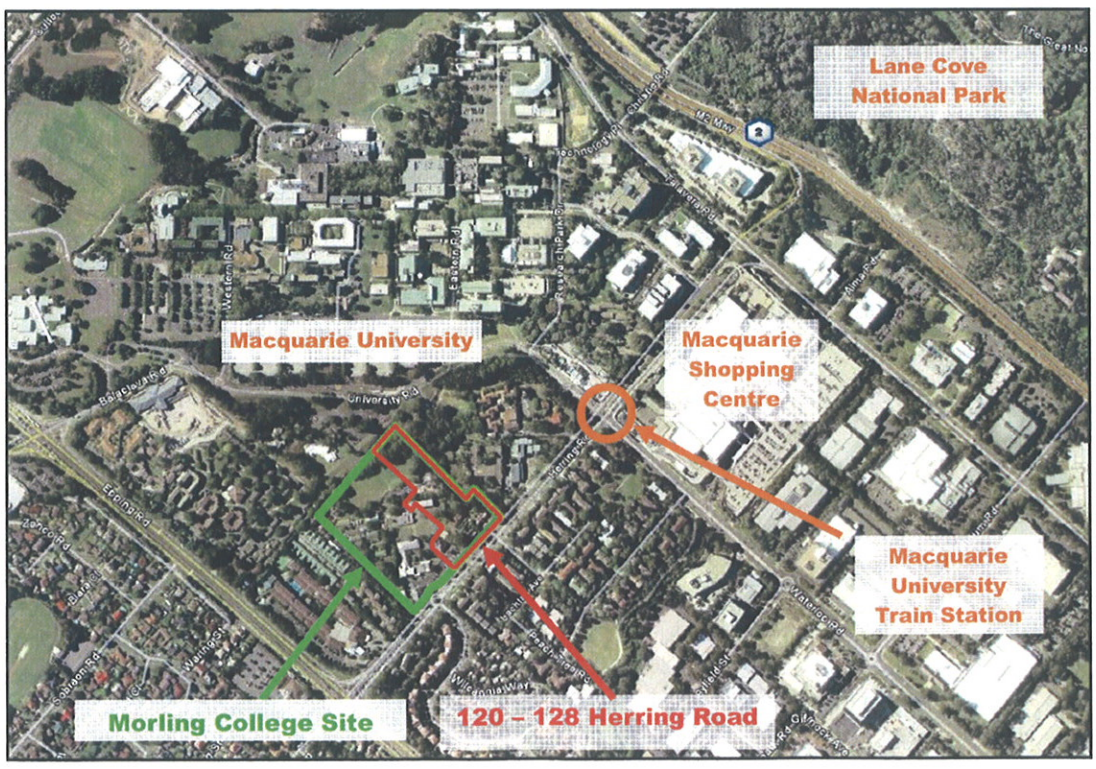

Figure 2: Site locality plan

1.2. Existing Site Features

The site slopes approximately 4 metres from Herring Road to University Creek at the rear of the property. The western portion of the site lies within the 1:100 year flood zone.

A large portion of the site lacks vegetation as a result of site clearing and existing structures. Vegetation is more prevalent along the University boundary and Creek to the rear of the site (refer **Figure 3** below).

There are several single storey residential buildings, a chapel and carports situated either wholly on, or straddling the boundary of the development site and Morling College. Morling College also comprises several 2 and 3 storey buildings housing student accommodation and associated facilities.

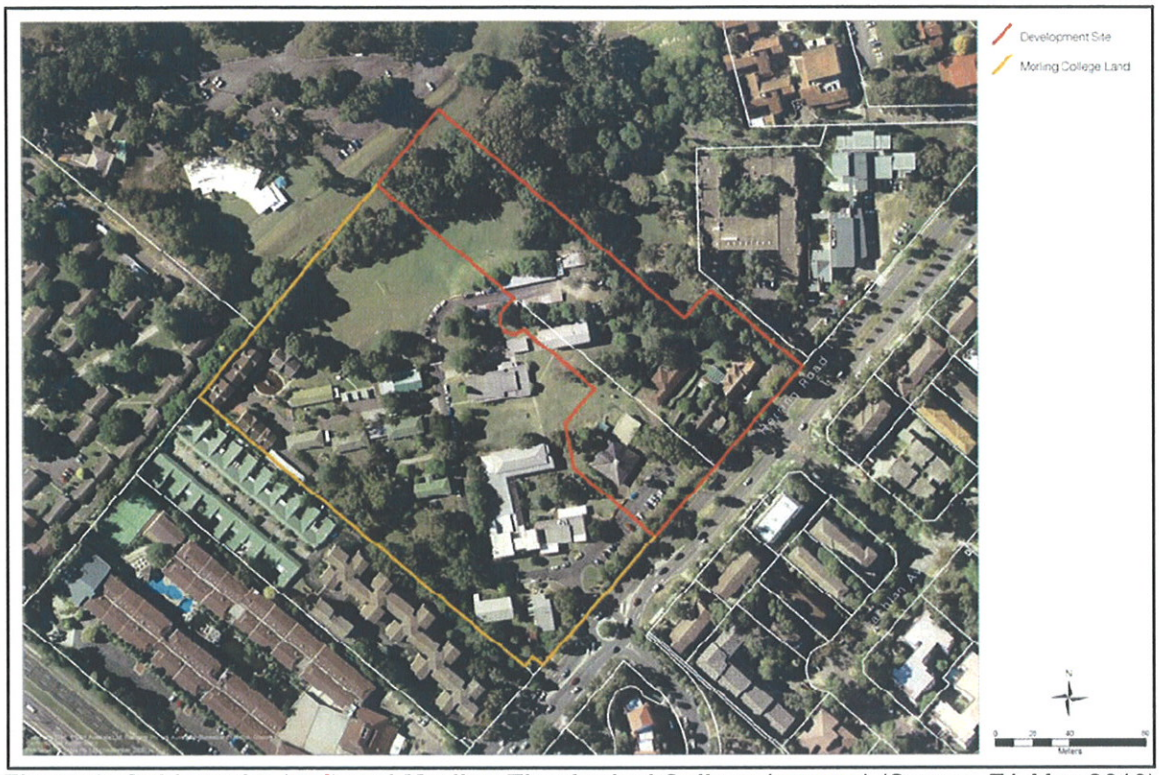

Figure 3: Subject site (red) and Morling Theological College (orange) (Source: EA May 2010)

1.3. Surrounding Development

Macquarie Park is identified as a "Specialised Centre" under the Sydney Metropolitan Plan containing a mix of residential, commercial, retail, industrial, education and health uses. The area is well serviced by public transport with the Macquarie University Railway Station located approximately 250 metres to the north-east of the site and a bus interchange is located 400 metres north-east of the site Macquarie Shopping Centre (Refer **Figure 2** above). The Lane Cove National Park (also to the north-east), is readily accessible for recreation, and the Macquarie University is adjacent to the site while the Macquarie Park Office Precinct immediately to the west providing a range of employment opportunities.

The Macquarie University, which abuts the northern boundary of the site, has Concept Plan approval for additional commercial and education floor space of up to 400,000m^2 together with additional student accommodation with maximum building heights of up to 28 storeys.

Existing surrounding development opposite is characterised by 3-4 storey walk up residential flat buildings.

The Stamford Grand Hotel and Conference Centre is located to the south-west at the corner of Herring Road and Epping Road.

2. PROPOSED PROJECT

2.1 Project Description

The **Environmental Assessment (EA)** seeks approval for the following:

Concept Plan (MP09_0195) envelopes for the height, bulk and configuration of 5 x 12 residential apartment buildings on separate allotments with associated landscaping, car parking and a new local access road in the form of a cul-de-sac. Indicative yield comprises 557 apartments and 736 carparking spaces and a total GFA of 44,000m^2. Ground floor retail is also proposed in Building A.

Project Application (MP09_0217) for subdivision of the development site in 3 stages which will result in 7 allotments at completion of the Concept Plan development, with each of the 5 residential apartment buildings on 5 separate allotments and the new local access road on 2 allotments (to be dedicated to Council).

Project Application (MP09_0218) for demolition and excavation, and the construction of Building A, and the construction of the portion of the new local access road off Herring Road. Building A will consist of 10,367 sqm GFA, 123 dwellings, 95.6sqm retail space, and 152 parking spaces at basement level.

2.2 Preferred Project Report (PPR)

Following exhibition of the EA, the Department advised the Proponent of several issues with the development and requested a PPR be submitted. The main issues related to height and building separation, future residential amenity, potential environmental constraints relating to the riparian corridor/threatened tree habitat/flooding and excessive parking provision.

On 7 October 2010, the Proponent submitted a PPR (**Appendix D**) which provided further justification for the variations proposed. Key revisions to the original proposal include:

- Replacing the 12 storey building heights to a varying building height plane of 9, 12 and 15 storeys;
- Reducing parking from 768 to 667 car parking spaces (removal of 101 spaces);
- Incorporating small car, bicycle and motorbike parking spaces in Building A;
- Building D to be located outside the University Creek riparian corridor;
- Proposed bio-swale to be located outside the riparian corridor;
- Re-directing the proposed public pedestrian/cycleway link to Macquarie University;
- Increasing the building separation by re-orientating building footprints;
- Inclusion of 3 dedicated car-share spaces along the new local road;
- Commitment to achieve a 4 Star Green Star rating for the development; and
- Commitment to an on-site offset planting strategy to enhance the sites' biodiversity value.

Concept Plan and Stage 1 Project Application

The relevant statistics for changes in the PPR are outlined in **Table 1**.

Table 1: Numerical changes to Concept Plan

	Environmental Assessment	Preferred Project Proposal
Site Area	17,173 sqm	17,253 sqm (+ 80sqm)
Gross Floor Area	45,718 sqm	45,718 sqm
FSR	2.66:1	2.65:1 *(change due to larger site)*
Buildings	5	5
Retail GFA (Building A)	95.6 sqm	95.6 sqm
Apartments	557	561 (+ 4)
Parking Spaces	768	667 (- 101)
Deep Soil landscaping (%)	37%	41%
Building Height	12 storeys	9 – 15 storeys

The 80 sqm increase to the site area results from the need to increase the size of the turning area of the new roadway and is achieved by subdividing a larger area from the existing Morling College site.

The Proponent has revised the built form (refer **Table 2** below) from a 12 storey maximum height for each of the 5 proposed buildings to a range of building heights of 9 to 15 storeys. This configuration was intended to remove the bulky uniform appearance of the design. There is concern regarding the height of 15 storeys (Building B) which is addressed in **Section 5.1** below. All carparking is provided underground in 3 level basements serving each building with access off the new internal road (to be dedicated to Council).

Table 2: Concept Plan Built Form (PPR)

Building	Gross Floor Area (sqm)	Storeys	Dwellings	Parking Spaces
Building A (subject of MP09_0218)	10,367	12	123	152
Building B	9,133	15	114 (indicative)	136 (indicative)
Building C	10,241	12	125 (indicative)	148 (indicative)
Building D	5,511	9	70 (indicative)	78 (indicative)
Building E	10,467	12	129 (indicative)	153 (indicative)
Total	**45,718**		**561**	**667**

The indicative distribution of dwelling types proposed across the 5 apartment buildings will comprise of 12 x studio units, 311 x one bedroom units, 206 x two bedroom units, 28 x three bedroom units and 4 x four bedroom units which is considered to present an appropriate mix. Approximately 96sqm of the ground floor of Building A will consist of retail uses. Buildings B to E comprise entirely residential floor space.

The urban form of the Concept Plan, as proposed in the PPR, is detailed in **Figures 4 – 6** below. The Project Application building (Building A) and the proposed subdivision pattern is also identified.

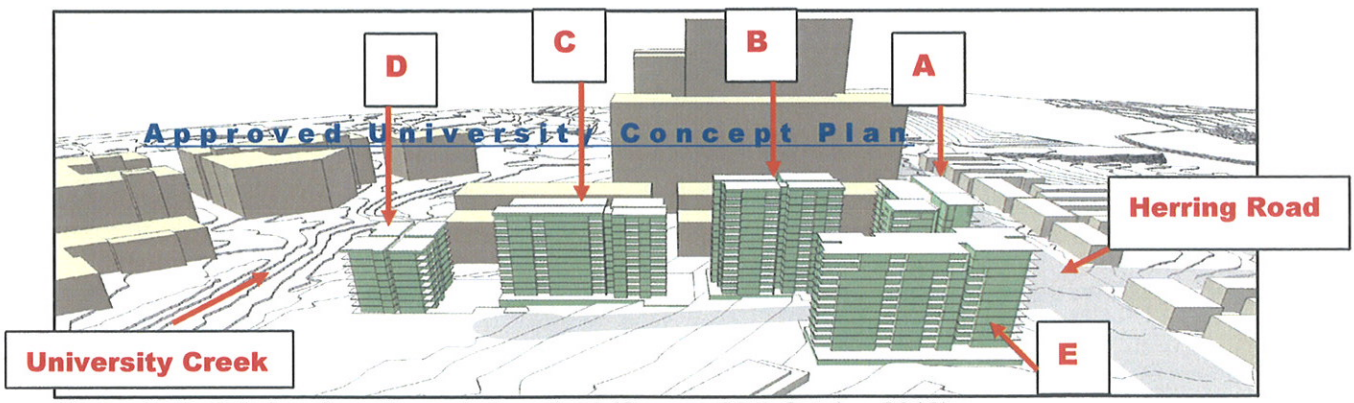

Figure 4: Aerial view (south-west elevation) (Source: PPR October 2010)

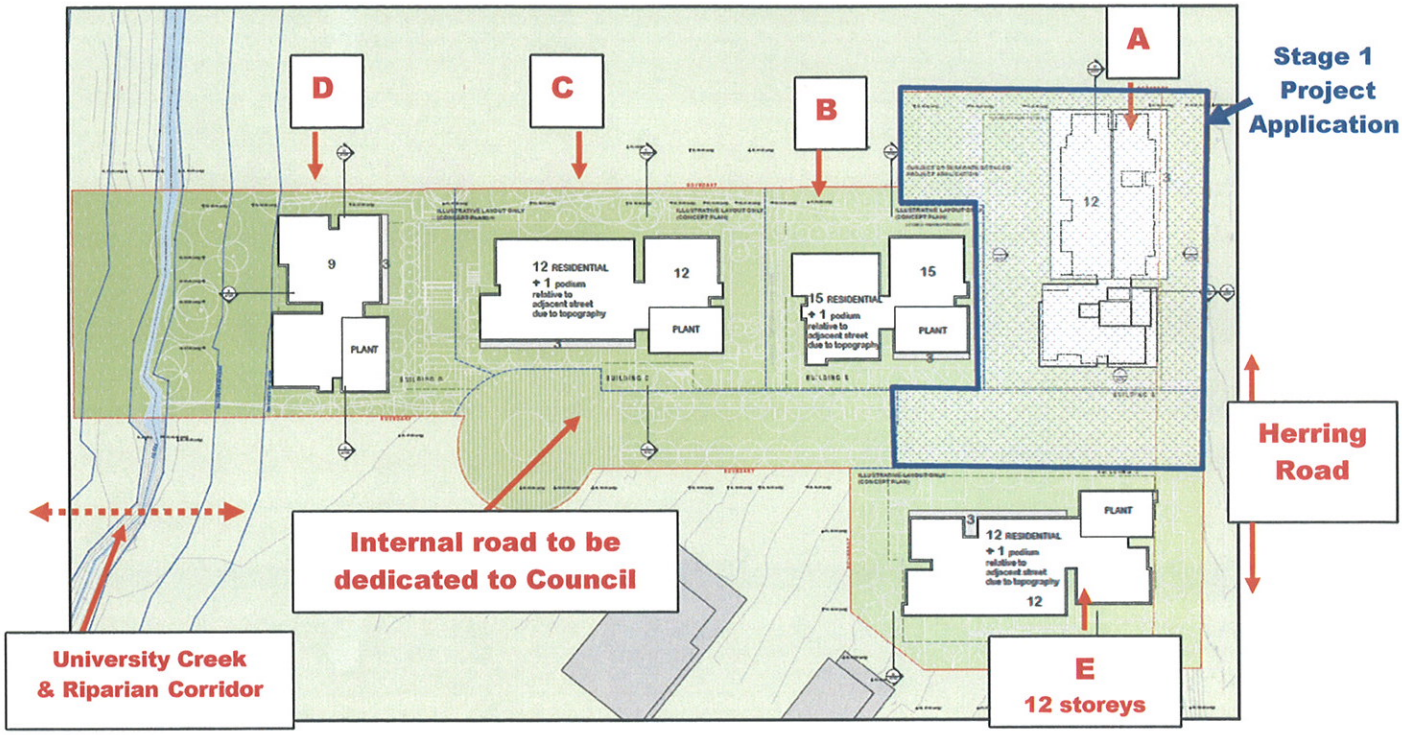

Figure 5: Proposed Layout (Source: PPR October 2010)

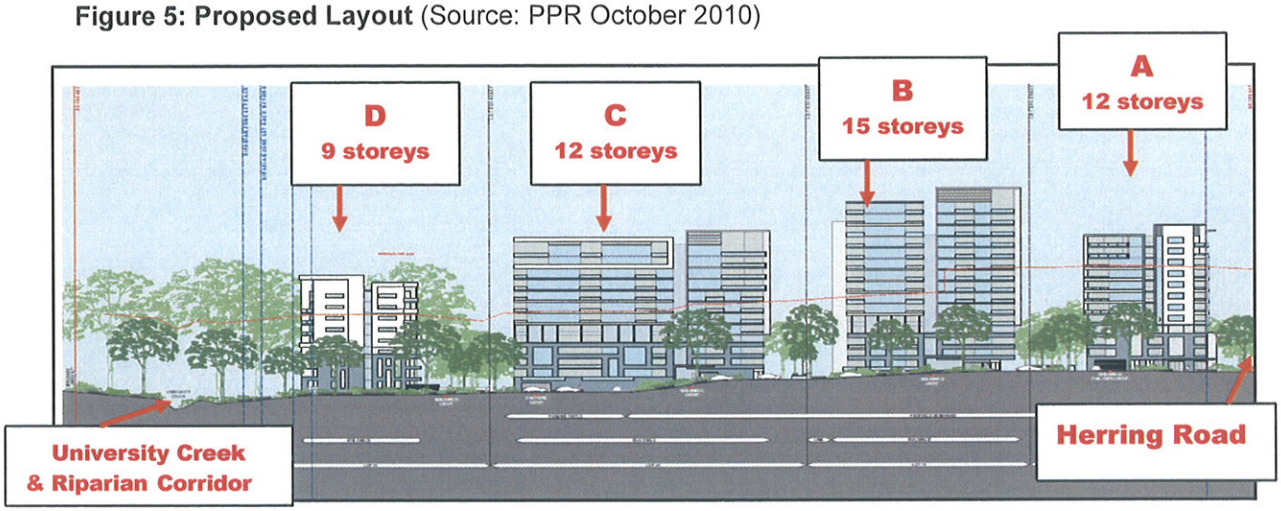

Figure 6: South west elevation & Site long section (Source: PPR October 2010)

Subdivision Project Application

The subdivision application (refer **Figure 7** below) consists of subdividing the development site from the existing Morling College land to create the Concept Plan land on separate title. The subdivision layout has been designed for each residential apartment building to be on separate Torrens title lots to allow later strata subdivision. The two road allotments will allow separate title for the new internal road to be dedicated to Council and incorporated in the public road network.

Stage 1 subdivision of the development site from Morling College and creation of Lot 1 which will support the first stage of development works fronting Herring Road.

Stage 1A will further subdivide the above Lot 1 into 3 allotments, to accommodate the construction of Building A, the first portion of roadworks, and a site for Building B.

Stage 2 subdivision will subdivide the remaining land into 4 allotments to accommodate the remaining development and the construction of the final section of road.

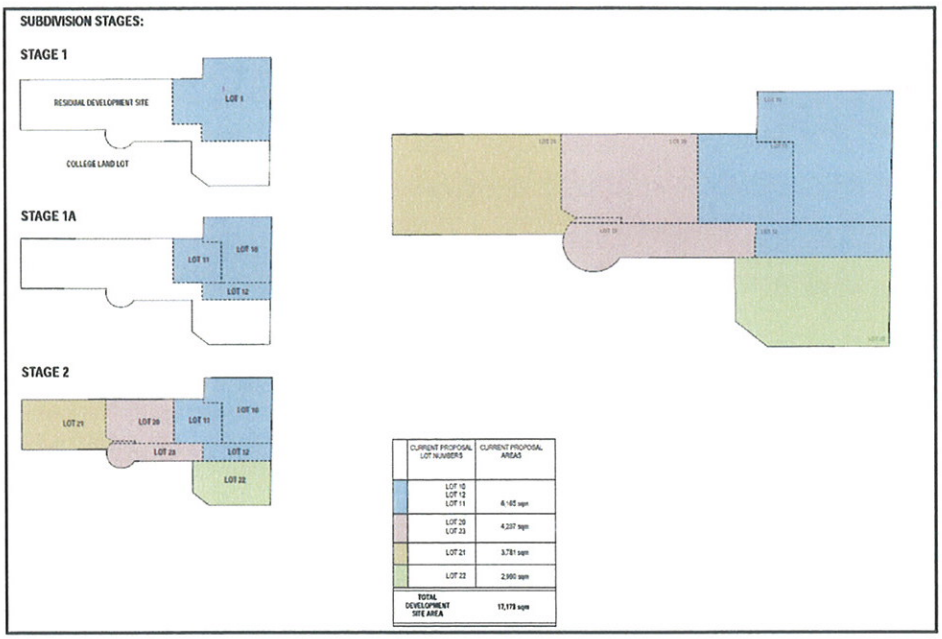

Figure 7: Proposed Subdivision Layout (Source: PPR October 2010)

2.3 Need and Justification

NSW State Plan

The NSW State Plan aims to achieve improved urban environments and ensure sustainable development through reductions in greenhouse gas emissions and development in close proximity to existing centres, services and transport.

The proposed residential development is located within a mixed use area close to employment, education facilities, regional retail services, transport infrastructure, recreational facilities and public open space, consistent with the aims of the State Plan.

Metropolitan Plan for Sydney 2036

The Metropolitan Plan for Sydney 2036, is a strategic document that guides the development of the Sydney Metropolitan area towards 2036. The Metropolitan Plan sets out housing and employment targets for the Sydney region at 770,000 additional dwellings and 760,000 new jobs, by 2036. The Plan further refines Sydney wide targets for the west central sub-region for an additional 96,000 dwellings and an additional 98,000 jobs by 2036. The Plan seeks at least 70% of new dwellings to be located within existing urban areas.

The proposal is consistent with the aims of the Metropolitan Plan for Sydney, as it will contribute toward meeting overall dwelling targets, locating dwellings within existing urban areas in an accessible location, and provide a number of construction jobs.

Draft Inner North Subregional Strategy

The Draft Inner North Subregional Strategy identifies Macquarie Park as a 'Specialised Centre' with an employment capacity target of 23,100 additional jobs by 2031. The Strategy also notes the importance of locating residential development within these employment centres and highlights that Ryde Council will need to provide sufficient zoned land to accommodate an additional 12,000 dwellings by 2031.

Ryde Local Environmental Plan 2010

The Ryde LEP 2010 was gazetted on 30 June 2010 and is a consolidating LEP which will apply until the gazettal of a comprehensive LEP. It is a direct translation of and replaces the Ryde Planning Scheme Ordinance. LEP 2010 zones the site as "*B4 (Mixed Use)*". Multi-unit development and business premises (retail) are permissible in this zone with consent. The relevant zone objectives seek to *"provide for a compatible mix of uses"* and *"integrate*

suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport usage and encourage walking and cycling".

Ryde Local Environmental Plan 2010 (Amendment 1)

Ryde Council has prepared Draft LEP Amendment 1 which will introduce bonus floorspace and height limits if certain public domain benefits and energy efficiency rating standards are achieved. On 26 November 2010, the Department advised Council to proceed with the Draft LEP, now known as Draft Ryde Local Environmental Plan 2011, as a Planning Proposal. The Draft LEP was placed on public exhibition for community comment commencing on 19 January 2011.

The public domain benefits to which the Draft LEP provisions will relate have already been identified in Council's adopted DCP 2010, and include the provision of a road, footpath and cycleway network and public open space, and have been considered in this report.

3. STATUTORY CONTEXT

3.1 Major Project

The proposal is a Major Project under Part 3A of the Act because it is development of a kind that is described in Schedule 1 of the *State Environmental Planning Policy (Major Projects)* 2005 – namely Part 5 Clause 13 – "residential, commercial or retail projects" and has a CIV of more than $100million. Therefore the Minister for Planning is the Approval authority.

3.2 Permissibility

Ryde LEP 2010

The site is zoned "Mixed Use (B4)" under the recently gazetted Ryde LEP 2010 and "Multi-Unit development" and "Business Premises" (retail) are permissible with consent.

3.3 Environmental Planning Instruments

The Department's consideration of relevant SEPPs and EPIs is provided in **Appendix A**.

3.4 Objects of the EP&A Act 1979

The Minister's consideration and determination of an application under Part 3A must be informed by the relevant provisions of the Act, consistent with Objects of the Act which state as follows:

"(a) To encourage:

- *(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- *(ii) the promotion and co-ordination of the orderly and economic use and development of land,*
- *(iii) the protection, provision and co-ordination of communication and utility services,*
- *(iv) the provision of land for public purposes,*
- *(v) the provision and co-ordination of community services and facilities,*
- *(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats,*
- *(vii) ecologically sustainable development,*
- *(viii) the provision and maintenance of affordable housing,*

(b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) To provide increased opportunity for public involvement and participation in environmental planning and assessment."

It is considered that on balance, with consideration of the benefits provided for in the proposal such as improved public domain, pedestrian connections and open space that the project application promotes the co-ordination of the orderly and economic use and development of land and provides a better built form and a positive amenity environment.

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the Concept Plan. The balancing of the application in relation to the Objects is provided in **Section 5** of this report.

3.5 Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

(a) the precautionary principle,
(b) inter-generational equity,

(c) conservation of biological diversity and ecological integrity,
(d) improved valuation, pricing and incentive mechanisms.

The project is consistent with the key principles of the ESD. A further detailed assessment against ESD Principles is at **Appendix A**.

3.6 Statement of Compliance

In accordance with Section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

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4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75H(3) of the EP&A Act, the Director-General is required to make the Environmental Assessment (EA) publicly available for at least 30 days. After accepting the EA, the Department exhibited the proposal from 26 May 2010 to 25 June 2010 on the Department's website and at the Department's Information Centre, Council's Information Centre and the North Ryde Library.

The Application, Director-General's Environmental Assessment Requirements and the Environmental Assessment were placed on the Department's Website which satisfies the requirements in Section 75H (3) of the EP&A Act. The Preferred Project Report was also placed on the Department's website.

A total of 14 submissions were received during the exhibition period comprising 6 from Government Agencies (including Ryde Council) and 8 public submissions including a submission from the Macquarie University.

A detailed consideration of the agency and authority submissions is provded in **Appendix B**. **Appendix B** also provides the Proponent's response to the issues and the Department's response.

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

The Proponent's response to submissions is contained in the PPR submitted on 7 October 2010 (refer **Appendix D**).

The Department has considered the issues raised in the agency, authority and public submissions in its assessment of the proposal.

4.2 Submissions from Public Agencies

Agency and authority submissions were received from Ryde City Council, Transport NSW, Roads and Traffic Authority, Department of Environment Climate Change and Water, NSW Office of Water, and Sydney Water.

Sydney Water did not raise any objection to the development.

The submissions from Agencies/Authorities raised the following matters:

- Bulk and scale of the development;
- Justification for floorspace;
- Traffic management and parking arrangements;
- Riparian management; and
- Residential privacy.

Ryde Council

The key concerns raised by Council relate to the proposal not being consistent with the strategic direction outlined for Macquarie Park in LEP 2010, the excessive height and FSR, excessive carparking provision and the poor permeability through the site which is contrary to the DCP provions which encourage a fine – grain suburban road and footpath network for this locality.

The Department has provided a detailed response to these issues in **Appendix B**.

In summary, the Department considers that the proposed land uses, height and FSR are strategically appropriate for this locality being in close proximity to good public transport, education and shopping facilities, and employment opportunities. The proposal provides a

high quality building design and good amenity for future occupants and is compatible with the local urban context.

It is noted that the proposed fine – grained network in this area is significantly truncated by the Macquarie University Concept Plan approval. However, the location of the internal road (to be dedicated to Council) and the requirement to provide a public pathway/cycleway connection to the University between Buildings B and C will adequately address the issue of permeabilty.

The PPR has significantly reduced carparking on site, which is now consistent with the Council's DCP objectives to minimise private car usage.

4.3 Public submissions

The public submissions (including 2 from Macquarie University) raised the following matters:

- Excessive height;
- Connectivity of the site to its surrounds;
- The height and design would be out of character with existing 3-4 storey buildings on Herring Road;
- Additional residential units will exacerbate existing traffic congestion on Herring Road during peak hours;
- A slow/turning lane should be provided;
- There is a lack of existing on-street parking which would worsen with the proposal;
- Increased traffic in the area would adversely affect air quality and noise in the area and therefore the health of residents;
- Impact on Concept Plan approval;
- Impact on Macquarie University's riparian corridor;
- Threatened species; and
- Existing stormwater runoff problems from Herring Road would be exacerbated by the development.

Macquarie University's supplementary submission raised concerns about the shared pedestrian/cycleway route proposed through the riparian corridor and across the creek and recommended that the proposed public access be relocated to the centre of the site to be compatible with the layout of envelopes approved under the University Concept Plan. The PPR has reloacated the access to address this issue. The University also questioned the significance of the Sydney Turpentine Ironbark Forest (STIF) at the rear of the site.

Department's response

The Department considers that the issues raised in the submissions have been adequately addressed in the PPR with exception of the height of Building B which should be reduced by 3 storeys from 15 to 12 storeys. The proposed height is not compatible with the context of surrounding residential buildings and will have a negative impact on the amenity of these buildings and creates a bulky visual appearance dominating the streetscape when viewed from the new road.

The Department considers that the remaining issues raised have been addressed by the Proponent in the PPR. In particular, parking provision has been reduced by 101 parking spaces. This will reduce car dependency and the level of traffic generated by the proposed development.

The connectivity to the University site has been improved with a pedestrian pathway between Building A and B, which has also removed the previously proposed connection across the riparian corridor (University Creek) which presented potential for adverse environmental impacts. The Proponent has generally improved riparian management by removing all infrastructure works and buildings out of the corridor. This issue was raised by the University and reflects the high level of significance placed on the creekline by DECCW

which does not support further creek crossings. The Proponent has also committed to the preparation of a long term management plan to be maintained in perpetuity.

Residential amenity has also been improved by re-orientating building footprints (particularly Building D) and increasing building setbacks.

The PPR has assessed the potential for STIF habitat on site and concurs with the University that there is no community existing on site.

The RTA's concerns regarding the location of the new access road have been addressed in the PPR which notes that existing road design and signage arrangements would discourage the potential for U-turns to occur, and that proposed traffic generation could be managed satisfactorily on a left in/left out only basis. Further, the current location of the access road is consistent with Ryde Council's Structure Plan for the locality as detailed in DCP 2010, and its relocation is not warranted.

4.4 Preferred Project Report (PPR) submissions

Ryde Council advised the Department that it considers the changes to the PPR are unsatisfactory since there are non-compliances with LEP 2010 and DCP 2010, specifically with regard to height and density. It considers the proposed layout does not provide for the future implementation of the road/pedestrian access network in this precinct of Macquarie Park and cross links across the site.

The Department believes the height (subject to the reduction to the height of Building B) and proposed density is compatible with the local urban context and desired future character for the locality, in particular having regard to the proximity to the railway station, retail and education facilities and employment opportunities in Macquarie Park Business Corridor. Further, the approved Concept Plan for the University site provides an important context for the proposal and is significantly higher than the buildings proposed by this development, and Council's LEP controls, especially along the Herring Road frontage towards the Station, where development envelopes of up to 28 storeys have been approved.

The PPR has redesigned the connectivity of the site to accommodate a north-south pedestrian/cycleway link to the satisfaction of the University. While this is not a road access, it is considered a satisfactory compromise.

DECCW considered the PPR and advised the Department that:

- it still considered that the remnant vegetation on the site is STIF;
- requested a Vegetation Management Plan (VMP) and Offset Strategy to ensure the Core Riparian Zone (CRZ), vegetated Buffer, and remnant vegetation in this area be protected in perpetuity;
- broad spraying should occur in areas of 100% exotic species cover;
- primary weeding should be undertaken via spot spraying or hand-weeding to avoid impacting any native species; and,
- the assessment against the *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* requirements is incomplete.

These issues have been addressed in detail in **Section 5.4** below, and while it is noted that DECCW have sought further investigation of the potential locations of STIF, this is a matter that can be considered with the future Development Application for Building D, which is proposed in the area of concern. A future assessment requirement is recommended to ensure an appropriate assessment is undertaken at DA stage.

The Proponent has included a Statement of Commitment regarding vegetation rehabilitation/restoration.

The Proponent's consultant confirmed that the indigenous consultation undertaken was consistent with DECCW's guidelines and since no artefacts or items were identified, no further consultation need be undertaken for the study site. The Department considers this matter has been adequately addressed and requires no further consideration.

NOW supported the amendments to the riparian corridor as outlined in the PPR and agreed that the removal of the previously proposed crossing was a positive outcome. NOW also supported the proposed regeneration of the riparian corridor at the rear of the development site and recommended the planting of locally endemic native plants.

The Department is satisfied that the issues have been addressed and can be managed by conditions of approval as required.

5. ASSESSMENT

The Concept Plan application provides the broad framework for the development of the site and includes 2 separate Project Applications for the staged subdivision of the site and the construction of Building A which are assessed separately.

The Staged subdivision Project Application (MP09_0217) and Stage 1 Project Application (MP09_0218) are specifically considered in **Section 5.6** below.

The Department considers the key assessment issues for the **Concept Plan** as:

- Height and Density
- Road and Pedestrian Network
- Residential amenity
- Impact on habitat and riparian corridor

5.1 Height and Density

Height

The proposed heights do not comply with Council's LEP 2010 height requirements of 27.5 metres along Herring Road and 21.5 metres for the remainder of the site (refer **Table 3** below).

Table 3: Height Compliance (Ryde LEP 2010)

Building	LEP Control (storeys) (height in metres)	PPR (storeys)	Variation (storeys)
Building A	8 (27.5 metres)	12	4
Building B	part 8/part 6 (27.5m/ 21.5m)	15	part 7/part 9
Building C	6 (21.5m)	12	6
Building D	6 (21.5m)	9	3
Building E	8 (27.5m)	12	4

The PPR has reduced the height of Building D at the rear by 3 storeys to 9 storeys but increased the height of Building B towards Herring Road by 3 storeys to 15 storeys by transferring the relevant floor space. The Proponent has argued that the additional 3 storeys of Building A will provide a positive transition from the larger footprint and bulkier buildings to the north-east at Macquarie University.

The future character of the area for medium to high density development has been established by the recent Macquarie University Concept Plan approval for commercial, education, research and student accommodation development of 5, 8, 18, 12 and 28 storeys fronting Herring Road, with these approved envelopes located on Herring Road, and generally stepping up in height and intensity towards the railway station. The relationship between the LEP height control, the approved University Concept Plan heights and the proposal are detailed in **Figure 8** below.

Department's Assessment

The relevant objectives as stated in the LEP encourage effective control of bulk and scale for new development and acknowledge that heights (and densities) increase in proximity to the railway station node. The proposed heights adopt this approach (though greater than prescribed by the LEP) and the proposed heights are compatible with the future character of the locality having regard to the University Concept Plan approval and the wider strategic context.

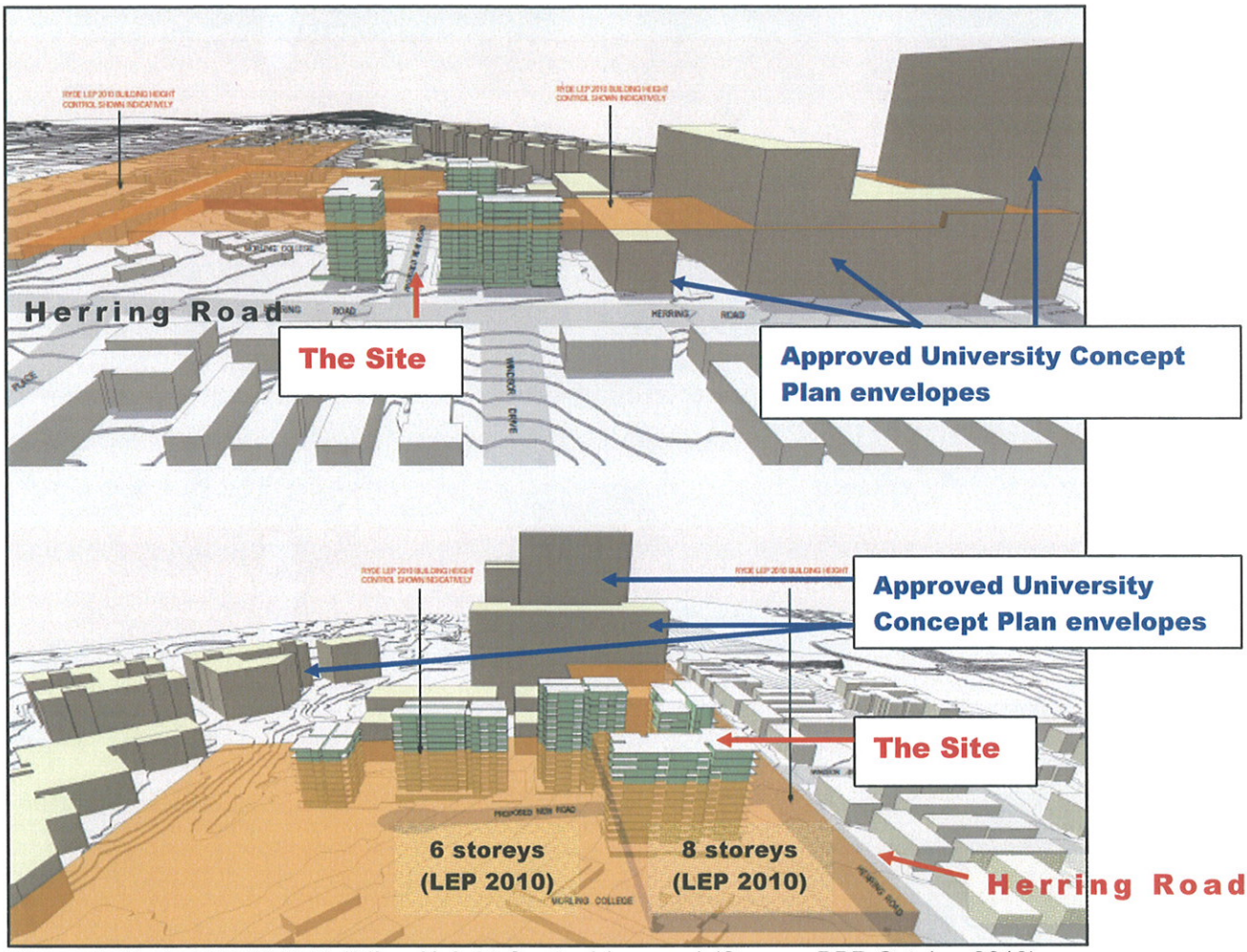

Figure 8: Ryde LEP 2010 Building Height Control (orange) (Source: PPR October 2010)

It is noted that the PPR proposal does not transition in height toward the rear as prescribed by Council's LEP height control (refer **Figure 8** above). The requirement to modulate heights between Herring Road and University Creek is a significant feature of the LEP controls. The current proposal does meet the intent of this requirement in part, as Building D is 3 storeys lower than the other buildings. However, at 15 storeys, Building B is inconsistent with the desired built form for the locality (refer **Figure 8** above) and the intent of the transition of heights detailed in the LEP. It is recommended that this building height be reduced by 3 storeys consistent with other proposed buildings on site. This reduced height to 12 storeys will reduce the impact of Building B on adjacent buildings on the site and will improve amenity impacts in terms of solar access and privacy to adjacent buildings.

Overall, the form of the development across the site presents as a series of well-spaced buildings with landscaped curtilages and setbacks. Only 2 of the 5 buildings front Herring Road, and notwithstanding heights of 12 storeys, present an appropriate bulk and scale for this locality and within the Herring Road streetscape. The proposed 12 storey building height provides an appropriate transition on Herring Road between any future development to the south at 8 storeys (Council's LEP) and the much greater heights of up to 28 storeys approved in the Macquarie University Concept Plan. The PPR achieves a general lowering and transition in height towards the rear of the site with the highest buildings (12 storeys as recommended) at Herring Road and the lowest at the rear (9 storeys), which is generally consistent with Council's built form objectives for the Macquarie University Precinct. This feature also assists with a moderation of bulk and scale.

Density

The proposed development does not comply with Council's LEP 2010 FSR controls of 2:1. While the building configuration has changed since the EA was exhibited, the total GFA is the same. However, the FSR for the site has only been reduced to a minor extent as a result

of a small increase in the site area by 80sqm for the new road turning circle. The Proponent proposes a GFA of 45,718sqm with a FSR of 2.6:1 which does not comply with the Council's LEP. The Proponent argues that the site's location in terms of opportunity for housing and dwelling mix justifies an increased FSR in this instance. Further improvements to the site in terms of public benefits (construction of new road, rehabilitation of the riparian corridor, and a commitment to achieve a 4 Star Green Star Rating) are also argued as contributing towards a higher FSR than Council's limits.

Department's assessment

The proposed built form outcome for the site has been addressed above, and generally the height, spatial layout, landscaped area and configuration of buildings are satisfactory and considered appropriate and compatible with the desired future character for this locality (except Building B – to be subject to reduction in height). In this regard, the resultant FSR is a reflection of the 5 building envelopes proposed and while in excess of the LEP requirement is not itself of concern, or likely to result in unacceptable impacts. There has not been any adverse impact identified in respect of traffic generation impacts arising from the additional floor space. The Department's recommendation to reduce Building B by 3 storeys in height results in a reduced FSR of 2.5:1 (GFA of 43,894sqm).

In summary, it is considered that the increased FSR is acceptable having regard to the close proximity of the site to good public transport, education and shopping facilities, and employment opportunities, and considering the high quality of the building design and good amenity of proposed apartments and is compatible with the local urban context.

5.2 Road and Pedestrian Network

The provisions of Council's DCP 2010 identify a fine - grained network of roads and pedestrian links across the Macquarie University Station Precinct between Epping Road and the Railway Station as detailed in **Figure 9** below.

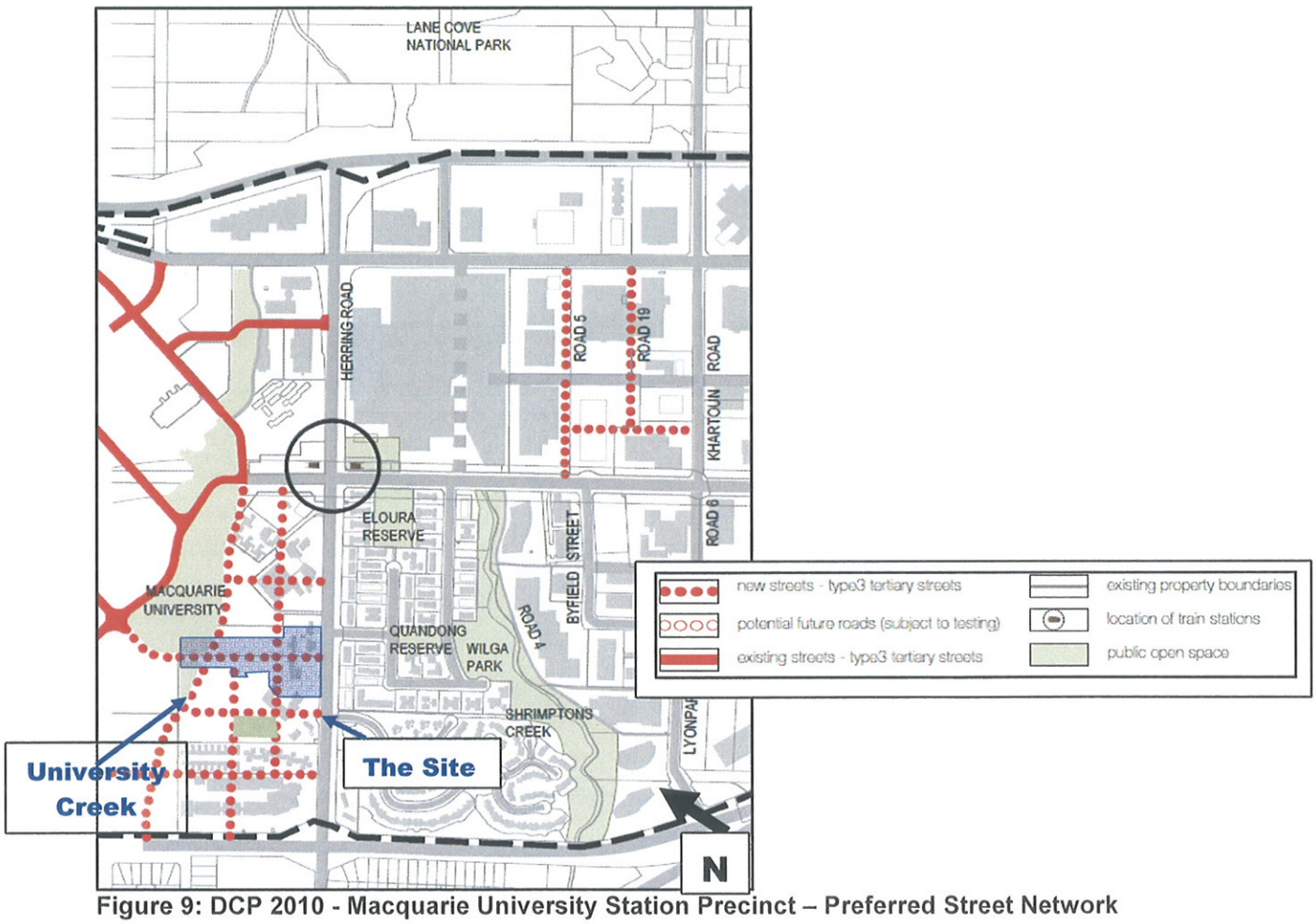

Figure 9: DCP 2010 - Macquarie University Station Precinct – Preferred Street Network

This plan locates 3 new local roads/pedestrian/cycleways across the subject site as part of a larger network. The DCP acknowledges that the dedication of this network to Council is reliant upon the provisions in draft LEP Amendment 1 which has yet to be exhibited and gazetted. This amendment will offer a range of bonus height and FSR to sites in exchange for dedication of land to achieve the identified network.

The PPR locates the main access road (to be dedicated to Council) in the location of one of the 3 identified road locations, but terminates this road before it enters the riparian corridor.

As noted above, based on submissions from DECCW, NOW and the University, the proposed road aligned with and crossing University Creek is not supported due to the potential impacts on the riparian corridor. Further, the approved Macquarie University Concept Plan effectively removes any opportunity to provide the second road connection to the north-east of the subject site. The PPR provides for a pedestrian/cycle access along the desired alignment to the University and the Department has assessed that this access together with the proposed road layout and design is a benefit to the public even if not consistent with Council's DCP as it will provide a viable cross precinct pedestrian/cycle link, and is compatible with the University's Concept Plan (refer **Figure 10** below).

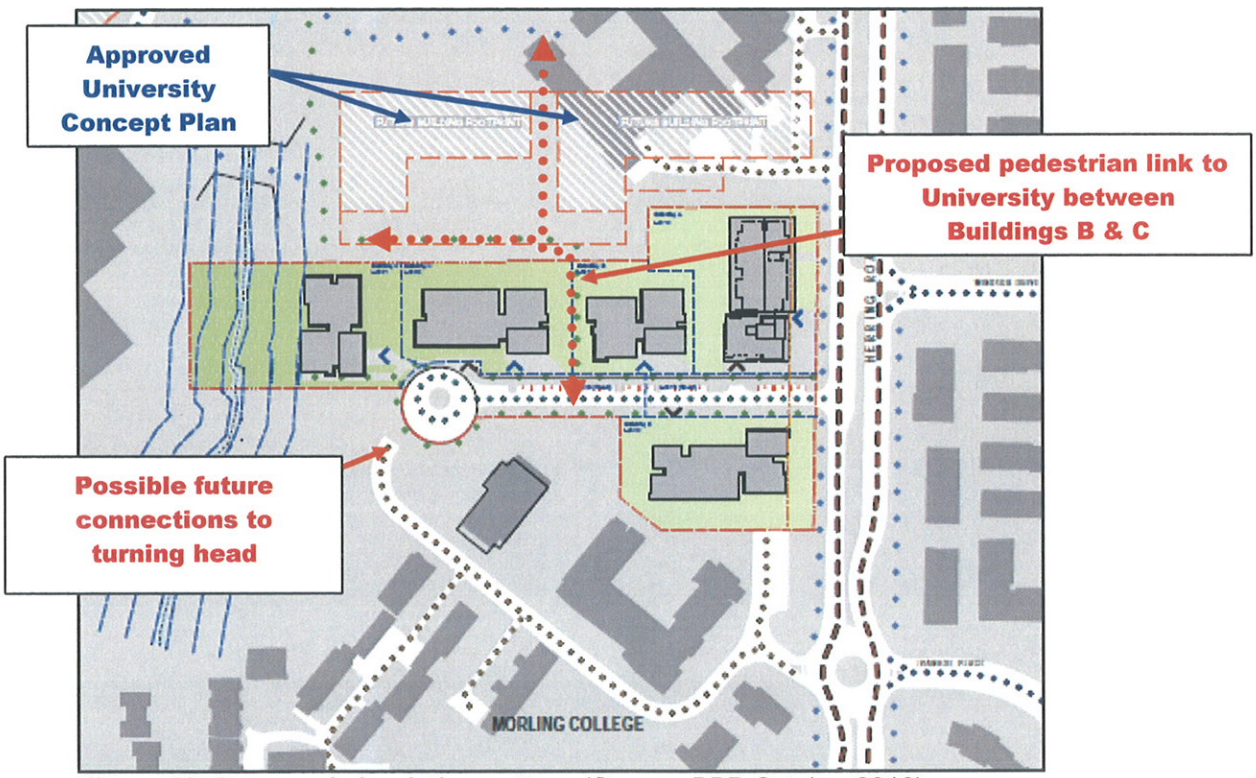

Figure 10: Proposed circulation pattern (Source: PPR October 2010)

Proposed Road Infrastructure

The new internal road comprises a 16.1m wide road reserve of 2 x 3 metre wide travelling lanes, parking bays on northern side, and a 3.8m wide pedestrian and bicycle path on both sides of the carriageway and is compatible with the standard prescribed in DCP 2010. The paths will connect to the existing footpath on Herring Road.

Council raised concern with the proposed cul-de-sac and requires it to be part of the future fine - grained network to improve access and connectivity within Macquarie Park. However, for the reasons noted above, this is neither practical nor possible.

The Department is satisfied with the Proponent's road design which allows for the possible extension of the proposed access road to the south creating a loop effect within the grounds of Morling College (refer **Figure 10** above).

Pedestrian/ cycleway

The PPR has relocated the proposed pedestrian/cycleway from crossing the creek line to a connection located between Buildings B and C adjacent the north-eastern boundary of the site connecting to the Macquarie University (refer **Figure 10** above). This amendment was at the request of DECCW to remove infrastructure works from the University Creek. This amendment is also supported by Macquarie University as it will improve environmental protection of the Creek and create a simple connection to the University. This connection will need to be constructed as a dedicated pedestrian path/cycleway and be subject to necessary easements for public access.

While the re-routed public pedestrian/cycleway link will have some surveillance from the surrounding buildings, it is considered that this area should have sufficient lighting for pedestrians using this connection at night and a condition of approval is recommended for the installation of appropriate lighting.

5.3 Residential Amenity

The PPR generally provides an appropriate response to meeting the development principles and providing reasonable future amenity to occupants with most requirements of *State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings* (SEPP 65) and the *Residential Flat Design Code* (RFDC) being met. However, solar access is one area of non-compliance which requires amendments to the proposal to ensure a satisfactory outcome.

The amenity impacts of the proposal on both adjoining properties and between proposed units in relation to separation and privacy have been assessed and are considered to be satisfactory as discussed below:

Building separation

The PPR has increased building separation between buildings on the site which has improved privacy and solar access to these buildings (**Table 4** below).

Table 4: Building separation

Building #	PPR Separation	Residential Flat Design Code (nine storeys and above)	Compliance
A and B	- min 15m - max 20m	- 24 metres between habitable rooms/balconies - 18 metres between habitable rooms/balconies and non-habitable rooms - 12 metres between non-habitable rooms	Yes (subject to condition) Yes (subject to condition) Yes
B and C (indicative)	- min 15m - max17m	- 24 metres between habitable rooms/balconies - 18 metres between habitable rooms/balconies and non-habitable rooms - 12 metres between non-habitable rooms	Yes (subject to condition) Yes (subject to condition) Yes
C and D (indicative)	- min 19m - max 23.5m	- 24 metres between habitable rooms/balconies - 18 metres between habitable rooms/balconies and non-habitable rooms - 12 metres between non-habitable rooms	Yes (subject to condition) Yes Yes

*Building E fully complies due to separation by proposed public road*

The required separations between Buildings B and C, and, C and D are indicative only as they form part of the Concept Plan, but sufficient detail has been provided to make an assessment and subject to a future assessment requirement being imposed on the Concept Plan approval for the screeing of affected habitable windows in side elevations and the edges of balconies as required to address privacy, a satisfactory level of amenity can be achieved.

The separation between Buildings A and B requires a more detailed assessment as Building A is the subject of a Project Application. The Proponent's main argument in support of the variation to building separation compliance is that Building A is orientated away from Building B and that the 2 affected apartments in Building A have oblique distant views due to the slenderness of the opposite façade of Building B (refer **Figure 11** below) and therefore, an acceptable amenity. It is noted that the offending habitable rooms in Building B will only

have secondary windows orientated to Building A and can be screened to ensure that there is no loss of amenity to Building A.

Privacy

Privacy levels between apartments in all buildings have improved as a result of the increased building separations from a minimum 15 metres to a maximum of 23 metres in the PPR. Building A is orientated away from the future envelope of Building B thus minimising cross viewing of balconies and habitable windows (refer **Figure 11** below). These changes are reflected in **Table 3** above which indicates improved building separations.

Habitable rooms and primary outlooks of Building C and D have been orientated in opposite directions to improve privacy. Buildings B and C are orientated to face the new street while Building D faces the creek. There is no impact to or from Building E as it is relatively isolated on the southern portion of the site.

The landscaped areas between buildings and communal facilities will also have an improved impact on privacy levels with proposed canopy trees screening cross viewing between lower levels.

Solar access

The PPR has increased the percentage of open space and principal living areas receiving greater than 2 hours of sunlight in winter from 55% to 62% overall (refer **Figure 11** below), which will improve amenity for future occupants. However, this outcome remains non-compliant with the 70% requirement of SEPP 65/RFDC.

Overall, approximately 44 apartments would be non-compliant (8%).

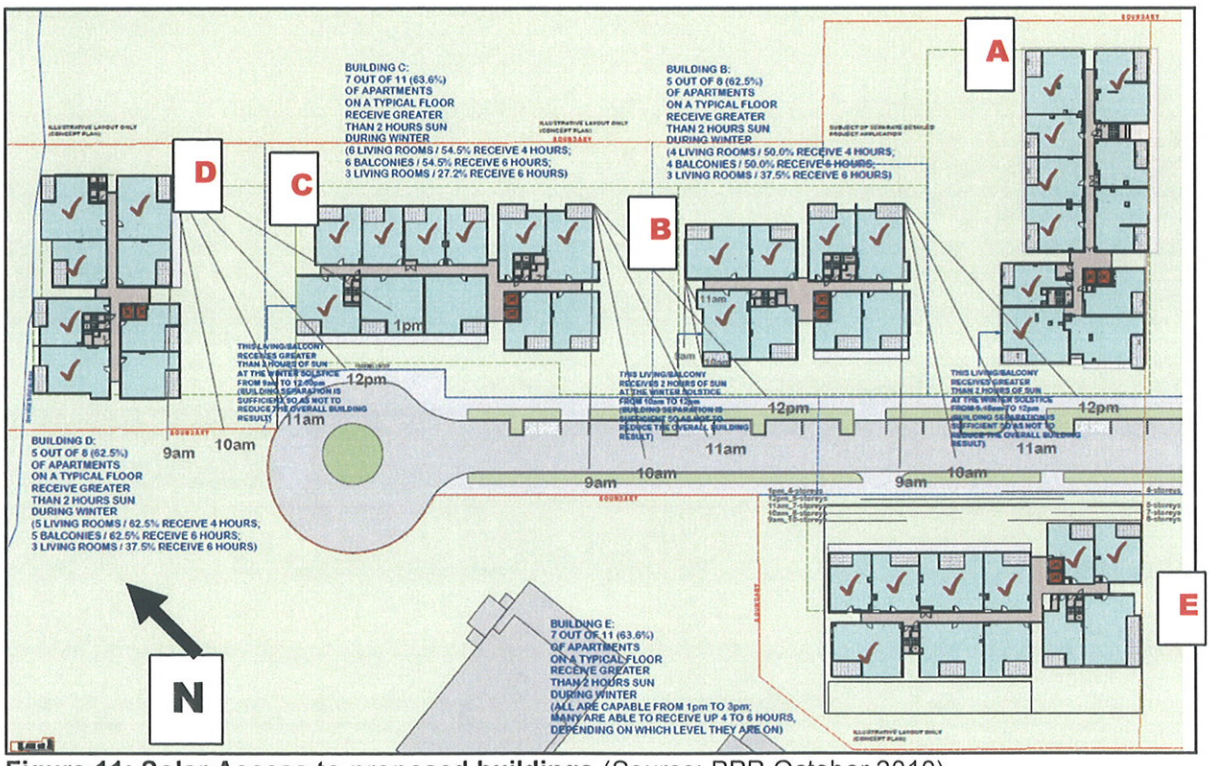

Figure 11: Solar Access to proposed buildings (Source: PPR October 2010)

The Proponent argues that the orientation of the site has limited the design of the development particularly for several south-east and south-west facing apartments. Further, over 50% of the living rooms for the development will receive greater than 4 hours of sunlight and over 33% of balconies will receive 6 hours of sunlight. It is also argued that the proposal has a high proportion of 1 bedroom apartments (311) due to market demand which has had a negative impact on the solar access calculations.

The Department considers that given the relatively unconstrained nature of the site and lack of significant built form on adjacent land which may have restricted development options, the minimum 70% control should be met and conditions of approval (Building A) and future assessment requirements (Concept Plan) are recommneded to ensure compliance. This may be achieved in a number of ways, including an amended unit mix, internal design/layout changes or re-orientation of units.

5.4 Impact on Riparian Corridor and Habitat

Riparian Corridor

NOW requested that the EA be amended to protect the riparian corridor at the rear of the site. The development free area will consist of a 10 metre Core Riparian Zone and a 10 metre Vegetation Buffer on the south-east side of the creek. These buffers are consistent with the Creek being classified as a first order watercourse with intermittent stream flow.

The Department is satisfied with the changes to the proposed design in the PPR to preserve the riparian corridor. To this effect, the Proponent has:

- re-orientated Building D to be situated outside the riparian corridor;
- re-designed the bio-swale to be situated outside the floodline;
- relocated the proposed footpath across the Creek to within the site; and
- created a 20 metre development free area within the riparian corridor.

NOW has supported the amendments to the riparian corridor and the removal of the previously proposed crossing which will protect the corridor from the potential environmental impacts of the development.

Threatened Habitat

The Proponent identified 29 locally occurring tree species on site and none were considered indigenous to the site. No threatened fauna species were indigenous to the site. Matters requiring clarification on threatened flora species are assessed below.

Sydney Turpentine Ironbark Forest

While the Proponent's flora and fauna assessment acknowledged that a threatened species, *Sydney Turpentine Ironbark Forest* (STIF) exists on the adjacent University site, it was requested to confirm whether STIF exists on the site. Further assessment (Anne Clements and Associates, 2010) has confirmed that STIF is not present on the site given the soil types present. DECCW's response to the above was to argue that the soil type on the site is a soil that is typically associated with the STIF ecological community.

Both arguments are noted, and while DECCW have sought further investigation of the potential locations of STIF, this is a matter that can be considered with the future Development Application for Building D, which is proposed in the area of concern. A future assessment requirement is recommended to ensure an appropriate assessment is undertaken at DA stage. In the event of STIF being present, the Proponent would need to modify the future proposal to avoid all impacts, or if impacts are unavoidable, offsets could be provided that will adequately compensate for these losses.

Syzygium paniculatum and Eucalyptus scorparia

DECCW requested the Proponent to assess the impacts on the proposed removal of the two threatened tree species (*Syzygium paniculatum and Eucalyptus scorparia*). The Proponent's assessment has confirmed that Tree No. 25 was misidentified and has been confirmed by the Botanical Gardens to be an *Angophora costata* and not a *Eucalyptus scorparia*. The Proponent argues that the single *Syzygium paniculatum* was planted in the lawn in the past 5 years.

The Department concurs with the Proponent's argument that the individual tree is located outside its natural range and its removal will have no adverse implications to its species. No further investigation in this matter is required.

5.5 Other Matters

Stormwater and flooding

The western portion of the site adjacent to the University Creek is flood affected. The Proponent's flood study concludes that the proposed development is in accordance with Council's DCP and would contribute a maximum 0.01 metre rise to the pre-development flood level. The minimal rise will have a negligible additional flood effects for downstream properties.

The PPR proposes that the treated stormwater from the bio-swale will be piped and discharged into the Creek. It is noted that the amount and discharge rate of stormwater captured across the site to go through gross pollutant traps prior to entering the bio-swale is unknown. Conditions of approval are recommended requiring further investigation and management of stormwater on the site at future Development Application stages to address any potential flooding or environmental impacts.

The Department considers matters of stormwater and flooding to be addressed if the above measures are implemented.

Traffic, Access and Parking

Access

The RTA requested an alternative access via the existing roundabout at the intersection of Herring Road/Ivanhoe Place which provides access to Morling College to prevent illegal u-turns on Herring Road. The RTA requested that the Proponent use the existing roundabout access to the site at Herring Road/Ivanhoe Place.

This road access, however, is for Morling College and not the site and would be an impractical arrangement for vehicles to travel through the Morling site to access the residential buildings. As a result, the Department believes that the proposed left-in, left-out intersection off Herring Road is an appropriate arrangement as this arrangement will allow the site to be easily accessible from Herring Road. Future possible u-turns should be managed through traffic signage. The RTA's concerns regarding the location of the new access road have been addressed in the PPR by the Proponent's Traffic Consultants which note that existing road design and signage arrangements would discourage the potential for U-turns to occur, and that proposed traffic generation could be managed satisfactorily on a left in/left out only basis. Further, the current location of the access road is consistent with Ryde Council's Structure Plan for the locality as detailed in DCP 2010, and its relocation is not warranted.

Parking

The Proponent has reduced the number of car parking spaces from 768 to 667 spaces in the 3 basement parking levels to minimise carparking by adopting the following rates:

- 1 space per one or two bedroom apartment;
- 1.6 spaces per apartment with three or four bedrooms; and
- 1 space per six apartments for visitors.

The Department is satisfied with the Proponent's advice that the design of future buildings will have similar parking arrangements to that of Building A. The reduction in car parking by 101 spaces in the PPR will further reduce traffic movements to and from the site. While this level of car parking provision is now lower than Council's DCP requirement (1 space per 60sqm GFA), it satisfies the objectives of the Macquarie Park Corridor by minimising car dependency.

Aboriginal heritage

The Proponent's consultant confirmed that the indigenous consultation undertaken was in accordance with DECCWs guidelines. Since no artefacts or items were identified, the Proponent argued that no further consultation be undertaken for the study site. DECCW,

however believes that the assessment falls short of the *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* requirements.

The Department concurs with the Proponent that since Aboriginal cultural heritage values are not likely to occur on the development site, no further assessment is required. The Department is further satisfied with the Proponent's review of archaeological and historical information, initial Aboriginal community consultation undertaken, and review of a recent local study in which Aboriginal cultural values were discussed. Consequently, the Department considers this matter addressed and requires no further consideration.

Ryde Council's Heritage Study

As part of the preparation of the draft LEP 2011, Council has undertaken a heritage study and initially identified the chapel on the Morling College Campus as recommended for further investigation as an item of local historical interest. Council raised this matter in its submission to the EA. The chapel is proposed to be demolished as part of a later stage of the Concept Plan. The Council placed the draft LEP on exhibition commencing on 19 January 2011, and it is noted that the chapel has not be included in the draft schedule of Heritage Items.

Section 94 Contributions

The Proponent has committed to Section 94 Contributions in accordance with Council's Section 94 Plan December 2007 (as updated 28 April 2010) and the Council has provided the relevant calculations as detailed in **Table 5** below.

Table 5: Section 94 contribution

Contribution Category	Amount
Community and Cultural Facilities	$285,374.48
Open Space and Recreation Facilities	$1,131,382.66
Civic and Urban Improvements	$148,808.44
Roads and Traffic Management Facilities	$159,637.72
Cycleways	$20,572.14
Stormwater Management Facilities	$18,212.68
Plan Administration	$5,546.54
Total Contribution	**$1,769,534.30**

Existing Child Care Facility

The proposed demolition of all structures on Lot 1 will result in the loss of a single storey community hall currently used as a childcare centre. The Department considers this loss will have an impact on local residents, and a further assessment requirement is recommended to be imposed on the Concept Plan approval to require that consideration be given to the provision of a new childcare centre (with a minimum GFA of 300sqm) on the ground floor of Building E. This location would remove 4 apartments. This location would make a child care centre easily accessible to the public. The centre would be constructed at the expense of the Proponent and dedicated to Council, if Council agrees, and would occur at the time of the assessment of the DA for Building E. This work may be treated as 'works-in-kind' in lieu of s94 or as otherwise agreed with Council.

5.6 Assessment of Project Applications

Staged Subdivision (MP09_0217)

The Department supports the proposed 3 - staged subdivision which provides for the orderly staged construction of buildings, provision of open space and the access road to be dedicated to the Council.

A future assessement requirement is recommended to be imposed on the Concept Plan approval to ensure that the desired pedestrian/cycleway access to the University (across Lot 11 – Building B) is provided and appropriately constructed and maintained with suitable rights-of-way for access by the public.

Stage 1 Project Application (MP09_0218) – Building A

The issues assessed above relating to the Concept Plan application have generally addressed any matters that would apply to the Stage 1 Project Application - Building A.

A separate instrument and conditions of approval have been prepared for the Project Application.

Building A will have a high quality landscaped setting and contemporary building form comprising of a dual tower form with a modulated façade providing articulation, and a range of materials and finishes. The proposed building will have several recreational facilities in the communal area on the site which includes the proposed swimming pool, barbeque area with courtyard, and, gymnasium. The Department believes that these facilities contribute positively to the amenity of future occupants.

The site will also benefit from the ancillary retail use located at ground floor which is likely to be occupied by a convenience retil/café tenant. The Department considers the proposed mix of apartments and ancillary retail use to be appropriate to the site and its locality along Herring Road.

Pedestrian access to the site is gained from Herring Road and vehicle access to the three level basement carpark is achieved from the new access road and has been assessed to be appropriate and well designed.

In terms of amenity, Building A apartments achieve a high degree of cross-ventilation (74%) with dual aspect orientation. All units have primary living areas facing distant views or new communal open space. Compliant floor to ceiling heights are proposed and apartment sizes are also SEPP 65 compliant. Privacy is achieved through orientation, internal layouts and separation of balconies.

The Department believes that Building A achieves a good design through the physical, spatial and environmental quality of the development subject to an increase in the number of apartments achieving 2 hours solar access to 70% (refer **Section 5.3** above).

Public Interest/Public Benefit

The Department considers that the proposal is in the public interest for the following reasons:

- Provision of 561 additional dwellings to the Inner North sub-region;
- The creation of public domain areas, a pedestrian and cycle way through the site;
- Revegetation and preservation of the riparian corridor;
- Developer contributions for open space, community facilities and traffic management as part of future applications; and
- Employment opportunities through the construction and operational phase of the development.

6. RECOMMENDATION

The Department has assessed the merits of the proposal taking into consideration the issues raised in submissions and is satisfied that the impacts have been addressed in the PPR, the Revised Statement of Commitments and recommended modifications/conditions of approval.

The Department is satisfied that the changes to the proposed development both in the PPR and as required by modifications and recommended conditions satisfy the Department's concerns. The connectivity of the site has also been designed to connect to Macquarie University and satisfies their concerns in this regard. The Proponent has also removed the impact on the riparian corridor by re-orientating Building D and removing infrastructure works within this area.

The Department believes that the proposed height of Building B of 15 storeys is excessive and not suitable for the site. It is recommended that this building height be reduced by 3 storeys. This reduced height to 12 storeys will reduce the impact of Building B on adjacent buildings on the site and will improve amenity impacts in terms of solar access and privacy to adjacent buildings.

The Department has assessed the proposed concept plan and project applications to be suitable to the recently approved development in the locality. Consequently, the bulk and scale of the proposed buildings is fitting to the Macquarie Park area. The Proponent's redesign also satisfactorily addresses the amenity impact of the design in terms of solar access and privacy.

In the event of STIF being present, the Proponent is to modify the proposal to avoid all impacts, or if impacts are unavoidable, offsets should be provided that will adequately compensate for any reasonable losses.

The development will benefit Ryde Council's growing population by providing approximately 561 residential apartments. As a consequence of this, the Department has prepared a condition of approval to ensure that the current child care centre facility proposed to be removed is considered for replacement on-site subject to the agreement of Council.

In conclusion, the impacts of the proposed development can be suitably mitigated and/or managed and the Department is satisfied that the site is suitable for the proposed development and that the project will provide environmental, social and economic benefits to Macquarie Park. It is considered that the impacts of the development can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance, pursuant to Section 75J of the Act. The Department recommends that the Concept Plan and Project Applications be approved, subject to the conditions/modifications of approval.

A/Director
Metropolitan Projects

20.1.11

Executive Director
Major Projects Assessment

20/1/11

Deputy Director-General
Development Assessment & Systems Performance

APPENDIX A. STATUTORY CONTROLS

SECTION 75I(2) OF THE ACT & CLAUSE 8B OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

Section 75I(2) Criteria	*Response*
Copy of the Proponent's Environmental Assessment and any Preferred Project Report;	The Proponent's EA and response to submissions (PPR) are located at **Appendices D** and **E** to this report.
Any advice provided by public authorities on the project;	All advice provided by public authorities on the project for the Minister's consideration is set out in **Section 4** of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory panel was required or convened in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified below, including an assessment of proposal against the relevant provisions of each SEPP.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division;	An assessment of the development against relevant Environmental Planning Instruments is provided below.
Any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate;	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	In accordance with section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

Clause 8B Criteria	*Response*
Any assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in **Section 5** of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in **Sections 4, 5 and 6** of this report.

The suitability of the site for the project	The site is a large, relatively unconstrained and underutilised area of land located in an area identified for mixed use development with good access to public transport, jobs, shops, services and education facilities.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in **Section 4** of this report and the Proponent's response appears at in **Appendix E**.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

There are five accepted ESD principles:

(a) *Decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
(b) *If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
(c) *The principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
(d) *The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
(e) *Improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Integration Principle** - The social, environmental and economic impacts of the proposal are positive and the development would provide a positive reuse of the site for residential use. The environmental impacts of the development are appropriately mitigated as discussed in this report. The Department's assessment has duly considered all issues raised by the community and public authorities. The development will also improve the public domain in and around the site.
- **Precautionary Principle** – The EA is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. The proponent has demonstrated that the development design and appropriate mitigation measures will be implemented to prevent any detrimental environmental impacts. No significant climate change risks are identified as a result of this proposal.
- **Inter-Generational Principle** – The site's redevelopment for a residential use incorporates ecologically sustainable design principles and the implementation of environmental management practices to be employed during construction which will ensure that the environment is protected for future generations.

- **Biodiversity Principle** – There is no threat of serious or irreversible environmental damage as a result of this proposal. The proposal does not impact upon biological diversity or ecological diversity.
- **Valuation Principle** – The valuation principle is more appropriately applied to strategic planning decisions and not at the scale of an application for a single building. The principle is not considered to be relevant to this particular Concept Plan application.

Whilst the details of ESD initiatives to be incorporated into the development would be contained in subsequent detailed Project Applications, the following general ESD principles were incorporated into the concept application and have been reinforced through the Statement of Commitments;

- Deep soil areas for significant planting; and,
- BASIX certification (and 4 star Green Star residential rating).

Developer contributions would also be paid as part of any future development application to assist Council in providing long term services to the community. Consequently, the Department is satisfied that the proposal is consistent with the principles of ESD.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI'S)

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy (Major Development) 2005;
- Ryde Local Environmental Plan 2010;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55); and
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings.

COMPLIANCE WITH PRIMARY CONTROLS

State Environmental Planning Policy (Major Development) 2005

Under Schedule 1, Clause 13, Group 5 of the Major Development SEPP, "*residential, commercial or retail projects*" with a capital investment value (CIV) of more than $100 million that the Minister determines are important in achieving State and regional planning objectives may be declared a Major Project under Part 3A of the EP&A Act 1979. The project proposes a residential development with a CIV of $150.5 million.

Ryde Planning Scheme Ordinance/ Ryde Local Environmental Plan 2010

The Ryde Planning Scheme Ordinance was the relevant Environmental Planning Instrument when this application was lodged. The Ryde LEP 2010 which was gazetted on 30 June 2010 is a like for like translation of the Ordinance.

The relevant provisions of the RLEP have been addressed within the report in **Section 5**. In particular non-compliances with height and FSR were considered in this assessment.

Ryde Local Environmental Plan 2010			
	Permissible	**Proposed**	**Compliance**
Development Control Table: "B4 Mixed Use" zone	Residential & Business Premises (retail)	Residential & Business Premises (retail)	Yes
Land Use Table: **B4 Zone Objectives:** • *To provide a mixture of compatible land uses.* • *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.* • *To create vibrant, active and safe communities and economically sound employment centres.* • *To create safe and attractive environments for pedestrians.* • *To recognise topography, landscape setting and unique location in design and land-use.*		The proposed residential development and its ancillary retail use will reinforce the residential character of the area and supports the adjacent residential and educational uses. Pedestrian and bicycle routes are proposed within the development and these are supported by the close proximity of the site to bus and rail transport. The site setting and in specific, the sensitive riparian corridor at the rear of the site is protected by the modifications proposed in the PPR.	Yes
Clause 4.3 - Height **Objectives: Macquarie Park** *(a) to provide effective control over the scale and bulk of future development,* (b) to concentrate building heights around railway stations, *(c) to provide focal nodes that clearly highlight the role of railway stations,* (d) to reinforce the important road frontages of Waterloo Road and Lane Cove Road.		The area is well serviced by public transport with the Macquarie University Railway Station located approximately 250 metres to the north-east of the site and a bus interchange is located 400 metres north-east of the site Macquarie Shopping Centre . The proposed heights are compatible with the future character of the locality having regard to the University Concept Plan approval and its close proximity to the Macquarie Park Railway Station. The form of the development proposed, apart from Building B which is proposed to be modified is a series of well - spaced buildings	Yes (subject to reduced height)

		with good landscaped setbacks with only 2 of the 5 buildings fronting Herring Road results in an appropriate bulk and scale for this locality and within the Herring Road streetscape. It is recommended that the Building B height be reduced by 3 storeys to 12 storeys will reduce the impact of Building B on adjacent buildings on the site and will improve amenity impacts in terms of solar access and privacy to adjacent buildings.	
Clause 4.3 - Height Control: Macquarie Park	21.5 – 27.5 metres (7 – 9 storeys)	31.3 – 49.3 metres (9-15 storeys)	No
Clause 4.4 - FSR Objectives: Macquarie Park *(a) to achieve a consolidation of development around railway stations, with the highest floor space ratios at the station nodes, (b) to allow feasible development of the sites around railway stations and facilitate focal points at the station areas, (c) to ensure that the peripheral locations of the corridor reflect the landscape needs and building setting requirements of the corporate building, (d) to reinforce the importance and function of the central spine (Waterloo Road and Riverside Main Street) with suitable built form, (e) to encourage the provision of a new street network, (f) to provide incentives for redevelopment in return for the provision of the proposed access network as a public benefit.*		The proposed FSR is a reflection of the 5 building envelopes proposed and does not result in a proposal of excessive bulk and scale. The separation and layout of buildings across the site is considered appropriate and compatible with the desired future character for this locality. The increased FSR is acceptable having regard to the close proximity of the site to good public transport, education and shopping facilities, and employment opportunities, and considering the high quality of the building design and good amenity of proposed apartments.	Yes
Clause 4.4 - FSR Control: Macquarie Park	2.0 : 1	2.65 : 1	No

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The proposal comprises more than 300 residential apartments and is therefore a traffic generating development. Clause 104 of the above mentioned ISEPP requires the Department refer the subject application to the RTA as part of the consultation process. The RTA's comments have been assessed and the Department will notify the RTA of its determination of the subject proposal.

State Environmental Planning Policy 55 – Contaminated Land

Clause 7(1)A of SEPP 55 states that a consent authority must ascertain whether the site is contaminated and requires remediation prior to issuing consent. The Proponent has committed to undertaking the measures and actions of the Phase 1 contamination assessment prepared by Douglas Partners (December 2009). This will ensure that the additional sampling and testing of soils will be undertaken prior to the issue of a Construction Certificate for Building A and is confirmed in their Statement of Commitments.

State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

The EA confirms the development has been designed having respect to the design principles of SEPP 65 and the Revised Statement of Commitments indicates future applications will demonstrate a level of detailed design consistent with SEPP 65.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The site is located in a mixed use area with predominant residential development and is located in close proximity to public transport and lends itself well to a higher density development.
Principle 2: Scale	The scale of the proposal, with the implementation of recommended modifications, will be consistent with the surrounding area. The proposed density is suitably located in regards to the scale of surrounding buildings.
Principle 3: Built Form	The Concept Plans built form and street and building layouts outlined is suitable to the locality. Internal amenity and solar access has been adequately addressed in Chapter 6 of this report.
Principle 4: Density	The proposed density is considered appropriate for the site and its context in terms of the proposed building envelopes and potential unit numbers.
Principle 5: Resource, Energy and Water Efficiency	The location and orientation of the building envelopes will provide good opportunities for units to be designed in a manner that maximises solar access and natural ventilation opportunities to reduce reliance on artificial heating and cooling. The Concept Plan makes a commitment to a range of ESD initiatives to be considered in future Development Applications
Principle 6: Landscape	The proposal includes deep soil zones within the setback areas which will allow for planting of tall trees. Detailed landscape plans provided are considered to be appropriate to this development.
Principle 7: Amenity	The Concept Plan seeks to optimise amenity in terms of solar access privacy which were considered to be issues to this development. Impacts on surrounding residents amenity is acceptable and impacts on the development are addressed to be acceptable (subject to conditions requiring 70% of units achieving 2 hours solar access in mid-winter).

Principle 8: Safety and Security	In general, the concept design allows for good passive surveillance of the road networks, and public and private open space areas on the site. The provision of a through site links, pedestrian friendly environments and landscaping improves the safety and security of the proposal. A condition approval has been prepared for suitable lighting to be prepared for the pedestrian access through the site.
Principle 9: Social Dimensions and Housing Affordability	The indicative floor layout shows a mix of apartment types which would encourage a diverse social mix within the area and to sustain a vibrant community.
Principle 10: Aesthetics	The building design and materials used are considered to be satisfactory to this design.

Residential Flat Design Code

The Code sets out a number of guidelines for residential flat development that would ensure the development to ensure apartments are provided with an appropriate level of residential amenity.

The Residential Flat Design Code (the Code) is closely linked to the principles of SEPP 65. The Code sets out a number of "rules of thumb" which detail prescriptive standards for residential flat development that would ensure the development complies with the intent of the Code.

The project has been assessed against the primary development controls contained within the RFDC. Discussion on key non-compliances with the Code is discussed in detail in **Section 5** of this report. The proposal has been assessed against these development controls and is generally consistent with the aims and provisions of the Code.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP-BASIX aims to establish a scheme to encourage sustainable residential development across New South Wales. The current targets of BASIX for Residential Flat Buildings commenced on 1 July 2006.

SEPP BASIX requires all new residential dwellings in NSW to meet the specified sustainability targets of a 20% reduction in energy use and 40% reduction in potable water. The Proponent has committed to design the residential apartment buildings in accordance with the requirements of SEPP (BASIX). BASIX certificates will be issued prior to construction certificate for each future building within the development.

Accordingly, a condition is recommended that the BASIX certificates be prepared at the relevant stage of development and the project is to be carried out in accordance with the submitted BASIX Certificates.

A BASIX Certificate No. 287704M_06 has been submitted in respect of Building A, which is the subject of the Stage 1 Project Application, and complies with the requirements of the SEPP.

APPENDIX B. SUBMISSIONS FROM PUBLIC AGENCIES

Objector and issues	Proponent comment	DoP comment
Department of Planning		
Public benefit	• Construction and dedication to Council a new Type 3 local access road. • Construction of a new pedestrian/bicycle pathway along the new local road and travelling between Buildings B and C to connect into the Macquarie University pedestrian network. • Revegetation plan for the riparian corridor along University Creek. • Net increase of trees and shrubs outside the riparian zone. • Landscaping that will enhance the amenity for residents. • Financial commitment by the proponent to achieve best practice ESD outcomes. • BASIX compliance to achieve a 4 Star Green Star Rating under the Green Building Council, for Building A and as well as the other 4 buildings on the site. • Building A will incorporate a retail tenancy space at the entry corner of Herring Road and the new road. • provide a dwelling mix required to meet the market demand Section 94. • contributions to Council to utilise for a wide range of capital works. • Provides new housing in walkable distance to the rail station and shops and close proximity to the commercial area.	**Addressed in PPR**
Solar access	A solar access schedule for all apartments in Building A has been included in the PPR Volume of Plans – Part 2 (iii) Building A Plans and the revised Architectural Design Statement and SEPP 65 Assessment	**Addressed in PPR - Slight increase in solar access - acceptable**
Open space/ deep soil	An open space and deep soil landscape plan (ref: A110) has been included in the PPR Volume of Plans – Part 2 (i) Concept Plans. This plan should be read in conjunction with the Landscape Plans prepared by Turf Design in the PPR Volume of Plans - Part 3.	**Addressed in EA**
Residential Privacy	The pedestrian link has been relocated to run between Buildings B and C, which has a minimum building separation of 15 meters. Residential privacy to the units adjacent to the pedestrian link will be preserved by employing the following design techniques including: - The nearest residential dwelling in Building C will be separated by a modulated podium garden/recreation space. This provides added separation and privacy for the ground and 1st floor apartments. - There will be at a 3 meter level change between the pedestrian link and the ground floor apartments of Building B. As shown in Section C in the Landscape Drawings, pedestrians will be level to the basement car park. As such the privacy from residents in Building B will also be preserved in this design.	**Addressed in PPR**
Ryde City Council		
General	Proposal is generally keeping with the future direction for residential development in this precinct however is concerned with height, floor space ratio, car parking, future permeability and access across the site and social impact assessment.	
Height is excessive	The view analysis prepared considers development along Herring Road. The urban form is considered appropriate from a public benefit, urban form and strategic planning perspective. Alternative building heights have been modelled at the request of DoP. The Proponent does not choose to benefit from the LEP incentive controls. Heights of the plant rooms have been included in the PPR.	**Addressed in PPR.** **Height considered acceptable. Addressed in Chapter 6 of this report.**
FSR is excessive	The Proponent argues that the objectives of the FSR controls are substantiated in the design through: • a revised modulated height proposed across the site, • the design achieves a 4 Star Green Building Council of Australia rating; • public and communal open spaces are provided including various landscaped areas and recreational amenities; • proposed deep soil planting areas exceed the SEPP 65 requirements	**Addressed in EA.** **FSR considered acceptable. Addressed in Chapter 6.**

	• the proposal maximises the residential density within walking distance from the train station, • a new local road is proposed for vehicles, pedestrians and cyclists; and • the design considers impacts on the amenity of future dwellings or the public domain having regard to privacy, solar access and views.	
Car parking to be limited to 80sqm	The revised car parking provision complies with Council's controls and objectives and results in a reduction of 101 spaces.	**Addressed in PPR. Reduced carparking acceptable.**
Permeability of the site	The separation between Buildings B and C has been increased and a 5 metre wide pedestrian and bicycle link is proposed connecting the new road to the University. These links are proposed to be a dedicated to Council as a public road and is included in the Statement of Commitments.	**Addressed in PPR. Proposed changes considered acceptable. Addressed in Chapter 6.**
Public domain	Buildings A and E have their principle pedestrian access points along Herring Road and vehicle access from the new road. The ground level of building A has been designated as a publicly accessible space with retail tenancy. Building E may also incorporate an active ground level use.	**Addressed in PPR.**
Building orientation	The distance between Buildings B and C achieves a 15 to 17 metre building separation. The internal layout of these buildings has been designed so that the outlook from the principle living space complies with the setback requirement under SEPP 65. Building D has been re-orientated which addressed Council's concern about the original design that 'turned its back' to the creek. The suggested linking of Buildings B and C into 1 is inappropriate for a residential use as it would fail to satisfy the SEPP 65 design criteria.	**Addressed in PPR.**
Social context	The "local context" referred to in the EA report is simply the B4 Mixed Use zoned area surrounding the site. The request for a Social Impact Assessment based on the matters raised by Council is necessary and unwarranted. The EA report provided a CTPED Assessment that demonstrated subject to satisfying certain design or operational matters, the development would satisfy the key CTPED principles to maximise safety and security.	**Addressed in PPR. Agree with Proponent. S94 contributions will address provision of services and infrastructure for Council.**
Boulevard limits opportunity for future fine grain connections.	The new Type 3 road is consistent with the finer grain network indicated in the Ryde DCP.	**Addressed in PPR. Connectivity addressed in Chapter 6.**
Paramics modeling to be done	CBHK are of the opinion that the real counts (raw data) by CBHK provide a more accurate basis for forecasting the traffic generated from the development and the likely implications on the surrounding intersections and road network. Proponent believes that the proposed development can be supported by the existing surrounding intersections and road network, for the following reasons: - The Paramics model is not justified, as is based on simulated modeling of hypothetical traffic movements based on counts undertaken prior to the model being prepared in 2007, which was before the Chatswood to Epping Rail Line was completed and opened. - The current level of investigation and analysis has been thorough and has provided sufficient accurate information to consider the impacts. The fundamental measure is whether the proposal requires any upgrades to intersections. The CBHK assessment has found that no upgrades are required. This fact is not disputed by either the RTA or Council.	**Addressed in PPR. Agree with Proponent. Traffic study undertaken by Proponent confirms traffic will be acceptable.**
Condition that s.94 contributions be paid	This is addressed in Statement of Commitments for the Concept Plan and the Building A Project Application.	**Council has confirmed the appropriate Section 94 contribution and road dedication.**

Transport NSW		
Promote public transport use. Implications for non-car travel modes. Minimalist approach to car parking. Travel Demand Management measures. Pedestrian and cycle connections are supported and should be secured by conditions.	Addressed in detail in the addendum traffic comments provided by Colston Budd Hunt & Kafes. The PPR has positively responded to these comments to have a minimalist approach to parking as well as provide additional measures to support alternate transport means than private car ownership.	**Addressed in EA.**
RTA		
Access arrangement and proximity to Waterloo Road, resulting in likelihood for illegal U-turns.	This matter has been addressed in the addendum traffic comments provided by Colston Budd Hunt & Kafes.	**Addressed in EA.**
DECCW		
Include the Sydney Turpentine Ironbark Forest (STIF) in the VMP. Further assessment of the value of the STIF. Consultation with appropriate Aboriginal stakeholders.	While the further investigation undertaken by Anne Clements and Associates found that STIF does not exist on the site, the Vegetation Management Plan has nevertheless been revised and updated to include details of an offset strategy. Further investigations into the ecological significance of the STIF identified on the site have been undertaken by Anne Clements, which supports the original TEC report conclusion that the site does not contain STIF. Further details of the assessment undertaken and the recommendations are contained within the Flora Report by Anne Clements. In response to the items raised by DECCW, Mary Dallas Consulting Archaeologists have provided additional correspondence which restates that eh consultation carried out is satisfactory and has been done so in accordance with DECCWs guidelines.	**Addressed in PPR.**
NSW Office of Water		
<u>Riparian Zone</u> • Recommends a minimum Core Riparian Zone (CRZ) of 10 metres plus a Vegetated Buffer (VB) of 10 metres, measured from the top of the bank of the creek. • Does not support locality of Building D, pedestrian and cycle path within the VB. • Does not suppport location of the bio-retention basin (bioswale) within the vegetated buffer. • Any proposed fencing must be located outside the VB zone. Objects to draft statement of commitments regarding fauna and flora <u>Groundwater</u> If the basement excavation intercepts or uses groundwater a licence under Part 5 of the Water Act 1912 may be required from NOW, pending further information on the magnitude of groundwater in-flows and the degree of contamination of the groundwater. NOW provided conditions of approval with respect to temporary groundwater de-watering.	The PPR documentation has adopted the DWE guidelines. Building D has been re-orientated and setback outside of the 20 meter riparian corridor. The pedestrian / cycle path as been relocated between Buildings B and C connecting the Boulevard to the University lands to the north-east. Proposed bio-swale has been redesigned to run along the south-western side of Building D. The swale runs between the end of the new road up to the edge of the riparian corridor boundary. The bio-swale will then be piped underground within the riparian corridor to drain into University Creek. The bollards have been deleted from the plans. No structures are proposed within the riparian corridor. The Draft Statement of Commitments has been amended and now satisfies the concerns raised by NOW. Refer to Statement of Commitments in Section 5 of this report. The temporary or long-term collection and disposal of seepage associated with a drained basement should be possible on this site and should not have a significant impact on groundwater flows. A Temporary Dewatering License under Part V of the Water Act 1912 is not necessarily applicable for this site and the proposed development, which will involve management of perched seepage flows. However, the Proponent's study recommends approval be sought from Council or the relevant consent authority prior to disposal of the collected seepage to the stormwater system or creek. If a Temporary Dewatering License is still deemed necessary by NOW then they suggested that the requirement for a tanked basement (i.e. specific conditions 1 and 2 of Attachment B) should be removed as this is essentially a commercial decision to be made by the developer when assessing management and	**Addressed in PPR.A condition of approval has been prepared for any fencing to be located outside the vegetation buffer zone if this application is supported.** **Addressed in Section 6 of this report.**

	maintenance requirements for the basement structure.	
Sydney Water		
Sydney Water raised no objection to the Concept Plan and will further assess any likely impact when the Proponent applies for a Section 73 Certificate. Sydney Water are currently assessing the feasibility of providing a recycled water scheme for the Macquarie Park area with nearby landowners including the Proponent and a key issue and risk for Sydney Water will be the certainty of developers connecting to the new scheme if approved.	NA	NA
Macquarie University		
Concerned about Building D being situated within the riparian corridor. Consideration of impacts of the development on the University land downstream of the Development Site. Existence of the STIF on the Development Site should be further investigated Impact on riparian corridor. Requests inclusion in the development of any change to the traffic and access arrangements.	The building footprint of Building D has been reduced and re-orientated to run across the site, parallel to the creek which resulted in Building D being located outside the 20m riparian corridor. The EA documentation included a Flood Assessment prepared by which concluded that the Concept Plan proposal will not result in any additional flood effects downstream. Further investigations supported the original TEC Report conclusion that the site does not contain STIF. All pedestrian paths in the corridor are removed. As a result of the meeting with the University the planned alternative bridge crossing has been abandoned for a linkage between Buildings B and C as suggested by the University. Vehicle access design is unchanged as the proposed building height is justified and will have no material impact on the objectors properties. The traffic impacts have been adequately assessed by CBHK and found to be acceptable having regard to the relevant RTA Guidelines.	**Addressed in PPR.**