

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2011SYE096
DA Number	MOD2012/0144
Local Government Area	City of Ryde
Proposed Development	Section 96(2) to amend the internal layout of Buildings B & C so as to accommodate more one bedroom apartments (change apartment mix), reduce height of lift overruns and minor reconfiguration of building footprint to reflect the changes in the apartment layouts.
Street Address	84-92 Talavera Road, Macquarie Park
Applicant/Owner	Karimbla Properties (No. 29) Pty Ltd
Number of Submissions	Nil
Recommendation	Approval
Report by	Sandra McCarry Senior Town Planner - Major Development

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a Section 96(2) application to amend the development consent 2011/0485 for the construction of a mixed use development comprising four buildings at 84-92 Talavera Road, Macquarie Park. Three of these buildings were approved for residential use and the fourth building as a hotel. A Section 96(2) was approved on 10 October 2012 (Modification 2012/118) to change the hotel and one of the residential building to service apartments. This changed the description to: Construction of a mixed use development containing serviced apartments and residential uses.

This Section 96(2) application proposes to amend internal layouts to the two residential buildings, Building B & C to change the unit mix from 98 to 116 apartments in Building B and 84 to 97 apartments in Building C. As a result of the changes, a number of design modifications are also proposed, such as reconfiguration of the building footprint, amended landscaping plan and reduced height to the lift overruns.

parking area and bridge over Shrimptons Creek. Construction of the proposed basement has commenced.

The site is surrounded by:

- Macquarie Shopping Centre to the south opposite Talavera Road
- A four storey commercial building to the east opposite Alma Road
- The M2 to the north and a small parcel of land to the west which is being used for the construction of an access ramp for the M2.

3. PROPOSAL

This Section 96(2) application is to alter the internal layout of the two residential buildings – Buildings B & C to change the apartment mix and layout. To reflect the changes to the apartment layouts, the building footprint on the site has been amended slightly. The proposed amendments include the following:

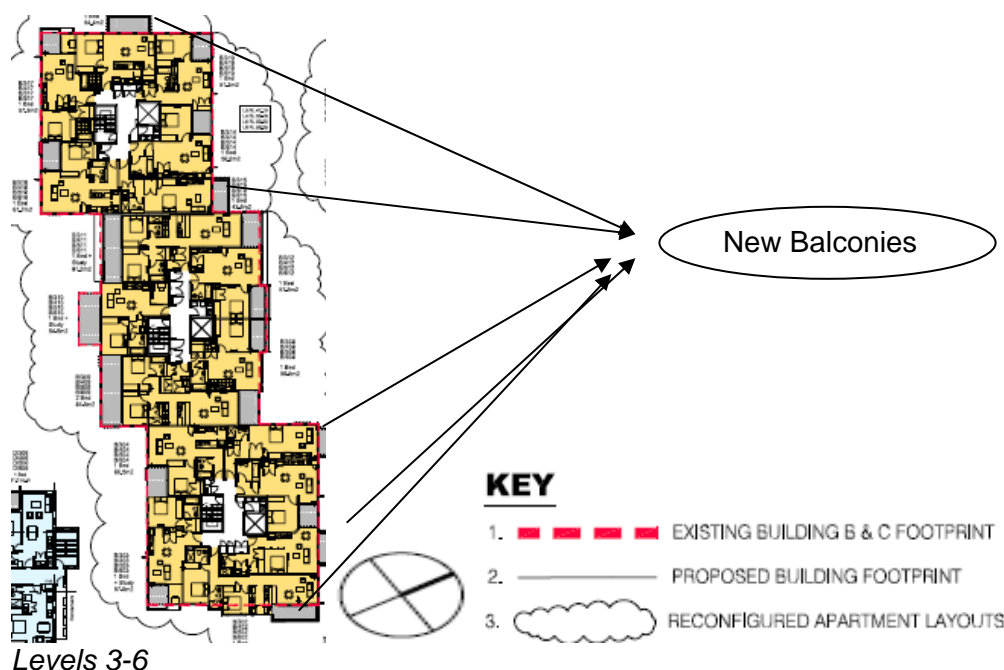
Building B:

- The internal layout of Building B is proposed to be amended to reflect changes in the apartment mix. The proposed change to the apartment mix is illustrated below: (an increase of 18 apartments).

Building B Unit Type	Approved	Proposed
Studio	12	2
1 Bedroom	43	80
1 bedroom + study	0	16
2 Bedroom	43	18
3 Bedroom	0	0
Total	98	116

- The footprint will be amended on each level. On the ground level the south eastern corner and western corner will be extended. On the first and second level, the building floor is broken into two sections with a gap of between 9m and 10m wide to allow for a pedestrian walkway. The western section of the building will be amended by increasing the northwest corner of the building with the eastern elevation continued straight across to remove the entrance indentation. The eastern section of the building will be amended by extending the western elevation thereby reducing the separation between the two sections from 9m and 10m to between 6.6m to 8m. The north-west section of the building has been reduced with the paved courtyard areas for each of the apartments extended and the northeast corner of the building “squared off”. A new north facing balcony is proposed which extends outside the original building envelope.
- On levels three to seven a new balcony is proposed off the western elevation facing the M2 Motorway. Along the northern elevation, the

balcony area is reduced and the building “squared up” at the eastern corner by enclosing the balconies to provide additional floor space and new east facing balcony. New north facing balconies are also proposed. No changes are proposed along the southern elevation. Below is a typical layout of the proposed changes for levels three to six.



- The overall height of the building has been reduced by 1.6m by the lowering of the Plant room.

Building C:

- The internal layout of Building C is proposed to be amended to reflect changes in the apartment mix. The proposed change to the apartment mix is illustrated below:

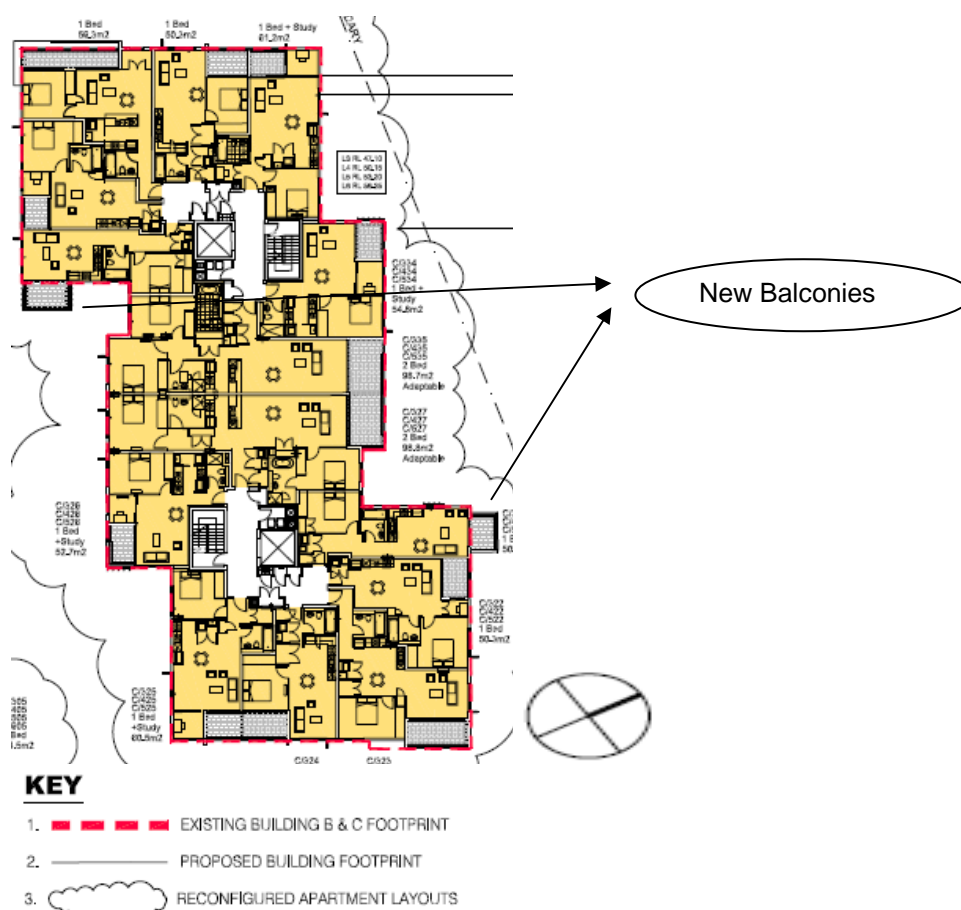
Building C Unit Type	Approved	Proposed
Studio	13	0
1 Bedroom	32	48
1 Bedroom + study		35
2 Bedroom	39	12
2 Bedroom + study	0	2
Total	84	97

An increase of 13 apartments will be provided within Building C, therefore increasing the total number of apartments from 182 to 213 for both Buildings B & C (increase of 31 apartments).

- The footprint of the building will be amended on each level. On the ground level the south eastern corner will be extended by 2.4m with internal configuration of the apartments amended. On the first and

second floor, there will be some increases in floor area by converting balconies to floor space. Additional balconies are proposed to extend outside the building envelope.

- On levels three to five, it is proposed to reconfigure the floor area along the eastern and western ends and add new balconies outside the building envelope at the south-western end of the building and the northern elevation. Below is a typical floor plan of levels three to five.



Levels 3-5

- The overall height of the building has been reduced by 1.6m by the lowering of the Plant room.

Table 3 gives a comparison of some of the key statistics for the approved development and the current Section 96 application.

Key Development Parameters	Approved	Amended Approved Modification No 2012/118.	Current Modification No 2012/144
Land Use Mix	Hotel and 3 residential buildings	2 serviced apartment buildings and 2 residential buildings	2 serviced apartment buildings and 2 residential buildings

GFA Site area: 14,160m ² .	28,300m ² FSR 2:1	27,161m ² 1.919:1	26,896.76m ² 1.899:1
Number of Storeys	Buildings A, B and C - 9 storeys (including the plant room) Building D – 10 storeys (including the plant room)	No change	No change
Maximum height of building	Building A – 29.5m Building B – 29.45m Building C – 28.45m Hotel – 31.5m	Building A – 29.1m Building B – No change Building C – No change Building D – 32.5m	Building A – No change Building B – 27.85m Building C – 26.86 Building D – No change
Car Parking	325 spaces	325 spaces – no change	325 spaces – no change
Unit Mix	Hotel	168 Apts	Building D 48 x studio 83 x 1 bed
	Building A	1 x studio 7 x 1 bed 42 x 2 bed	15 x studio 40 x 1 bed 13 x 2 bed
	Building B	12 x studio 43 x 1 bed 43 x 2 bed	No change
	Building C	13 x studio 32 x 1 bed 39 x 2 bed	No change
Setbacks	Talavera Road – 5 to 10m Alma Road – 31m M2 – 3m to 12.5m Western boundary – 5m	No change	No change No change Minimum 3m 3m to 5m
Landscaped Area	Approximately 71% of the site area	No change	Minor change to landscaped area due to provisions / enlargement of courtyards on the ground floor. Sufficient landscaping provided

Table 3. Comparison of the key statistics for the approved, amended development consent Mod 2012/0118 and the current Section 96 application.

4. **BACKGROUND**

Development Consent 2011/0485 was granted by the Joint Regional Planning Panel on 15 March 2012 for the construction of a mixed use

development comprising four buildings. Three of these buildings were approved solely for residential purposes and the remaining building as a hotel. The residential component of the development contained 232 residential apartments distributed across 3 x 8 residential storey buildings with car parking for 315 cars. The hotel building will contain nine commercial storeys with 168 hotel rooms, restaurant, bar and meeting rooms.

Several S96 Modification Applications have been approved by Council:

- MOD2012/0037 was submitted to Council on 27 March 2012. This Section 96 involved inserting a new condition 1A to allow for the development to be staged as well as modifying the wording of several conditions of consent. This application was approved by Council on 30 May 2012.
- MOD2012/0082 was submitted to Council on 29 June 2012. This application proposed changes to the parking level 1 and ground level. The changes reflected a revised layout of the car parking on both of these levels. As part of this application the number of car parking spaces and bicycle parking spaces was amended to reflect the Council's new requirements. This Section 96 application was approved by Council on 2 August 2012.

A Section 96(2) application (MOD2012/0118) was submitted to Council on 28 August 2012. This application proposed to change the use of the hotel building and residential Building A to serviced apartments. As a result of this change of use, design modifications were also required. This Section 96 application was approved by the JRPP on 11 October 2012.

5. APPLICABLE PLANNING CONTROLS

The following planning policies and controls are of relevance to the development:

- Section 96(2) of the Environmental Planning and Assessment Act, 1979;
- Ryde Local Environmental Plan 2010;
- Ryde Development Control Plan 2010;
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy No. 55 – Remediation of Land; and
- State Environmental Planning Policy (Building Sustainability Index: BASIX).

6. PLANNING ASSESSMENT

Section 96(2) of the Environmental Planning and Assessment Act 1979

The provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria:

- (a) The development to which the consent as modified relates is substantially the same development.
- (b) Any concurrence authority has been consulted and has not objected.
- (c) The application has been notified in accordance with the regulations.
- (d) Submissions made during the prescribed notification period have been considered.

These issues are discussed below.

- (a) The development to which the consent as modified relates is substantially the same development.

Under Section 96(2) (a) Council must be satisfied that the development as modified is substantially the same as was approved in the original consent. In arriving at this determination there should be no consideration of the merits of the proposal but rather a straight before and after comparison. If it is determined to be substantially the same then the proposed modifications need to be assessed on their merits having regard to submissions received and any relevant council planning controls.

There have been a number of decisions in the Land and Environment Court that have addressed the issue of whether a development is substantially the same development as previously approved. In Vacik Pty Limited v Penrith City Council (1992 NSWLEC 8 (24 February 1992) Stein J said:

“In my opinion ‘substantially’ when used in this section means essentially or materially or having the same essence.”

In Moto Projects (no 2) Pty Limited v North Sydney Council (1999) 106 LGERA 298, Bignold J made the following observations:

“The relevant satisfaction required by s96 (2) (a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.

The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is ‘essentially or materially’ the same as the approved development.

The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved

and modified where the comparative exercise is undertaken in some type of sterile vacuum. Rather the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).....because the requirements of s96(2)(a) calls for an ultimate factual finding on the primary facts of the case, only illustrative assistance is to be gained from consideration of other cases involving their own factual findings on relevant satisfaction required by s96(2)(a). References to those cases indicate that environmental impacts of proposed modifications to approved developments are relevant to the ultimate factual finding.”

In determining if a development application is substantially the same as the approved development, the question is whether such changes result in it being able to be said that the modified development is essentially or materially the same as the approved development. The Land and Environment Court has also found that the more substantial or complex the original development, the more likely it is that a larger degree of change will be permitted.

The current application involves variations to the approved two residential Buildings B & C. The use of both of these buildings will remain unaltered, residential as per the original approval. The floor plan of the building is still similar to what was previously approved by the JRPP.

Part of the Section 96 application also includes an increase in the floor space of Buildings B & C however the proposal is within the floor space ratio of 2:1. The increase predominantly occurs on the corners of the buildings to provide additional floor area to cater for the internal reconfiguration of the building layout. The changes will not significantly alter the appearance of the building when viewed from either Talavera Road or Alma Road. The increase in the floor space of the buildings will result in minimal changes to the bulk and massing of the buildings.

A comparison of the resulting elevations by reference to the approved and proposed plans indicates a substantial degree of similarity. This is based on the overall design, scale and form of the development not being substantially altered by the proposed amendments. The critical elements of the proposed development such as the overall massing, bulk and scale of the four buildings, the buildings footprints, the location of pedestrian and vehicle ingress and egress points, the provision of open space and a mix of residential and tourist and visitor accommodation will remain essentially or materially the same as the original development.

The applicant has provided a copy of a legal opinion from Gadens lawyers in respect of the issue of “substantially the same”. Gadens Lawyers has put the following to support that the proposal satisfies the “substantially the same” test:

The consent authority must be satisfied” that the modified development will be “substantially the same development” as authorised by the original development consent.

To perform this test properly, two evaluative exercises need to be performed:

Quantitative differences

- 1.4 The numerical differences (between the development as originally approved and that proposed under the October 2012 modification application).*
- 1.5 The height is marginally reduced because of the reduction in the height of the rooftop plant in Building B and Building C. The floor space ratio has only been marginally reduced (from 2:1 to 1.9:1). The number of buildings remains the same.*
- 1.6 The October 2012 modification application does not; in itself significantly alter the intensity of the residential uses of site. The application results in a net loss of 13 bedrooms which represents a 3.7 per cent reduction on the originally approved number of bedrooms (343). Car parking is not changed by this modification application (and we see no reason why the traffic impacts of the modified development would be significantly different from those of the originally approved development).*
- 1.7 In our opinion, the numerical similarities between the development as originally approved, and the proposed modified development, support a conclusion that the latter will be substantially the same as the former.*

Qualitative differences

- 1.8 The main qualitative difference (between the development as originally approved and that proposed under the October 2012 modification application) arises from the change in the unit mix, with a reduced focus on two bedroom units and a greater focus on one bedroom units.*
 - 1.9 In Davis Developments Pty Ltd v Leichhardt Council [2007] NSWLBC 106 the Land and Environment Court considered a proposal to:*
 - (a) modify a development consent to reduce the number of residential units in an approved apartment building from 42 to 30 (a 29 per cent reduction); and*
 - (b) change the unit mix throughout the building.*
 - 1.10 In our opinion, the qualitative similarities between the development as originally approved, and the proposed modified development, support a conclusion that the latter will be substantially the same as the former.*
- 2. Identification of any important, material or essential features of the development that are impacted by the modification application*

2.1 While a consent authority will need to consider the whole of the developments being compared, a proposed modification may fail the substantially the same test if an important, material or essential feature of the originally approved development is changed in a significant way.

2.2 We have not identified any important, material or essential aspect of the originally approved development that will be so changed. The modification application preserves the material elements of the originally approved development.

Council's General Counsel has reviewed the legal opinion and agrees that the proposed changes can be done by way of a Section 96 application. A copy of Gaden's letter and Council's General Counsel advice have been attached to the report as Annexure A.

For the above reasons, it is considered that the proposed development is substantially the same as that which was originally approved.

(b) Concurrence Authority

This amendment does not propose to encroach into the riparian corridor and NSW Office of Water has advised that they have no objections to the amendments.

(c) Advertising and Submissions

The Section 96 application was advertised in accordance with Council's notification requirements for a 14 day period between 10 October and 25 October 2012. During this time, no submissions were received.

Conclusion

The proposed development satisfies all of the requirements of Section 96(2).

In addition to the above consideration, section 96(3) requires the consent authority to take into consideration matters referred to in Section 79C of the Environmental Planning and Assessment Act, 1979 that are relevant to the proposed development. These matters are discussed below:

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The SEPP required Council to take into consideration the design quality of the development in accordance with the ten design quality principles and the Residential Flat Design Code.

The proposed modifications are not considered to greatly alter the original assessment of the ten Principles of the SEPP in terms of context, scale, built form, density, resource, energy, landscape, safety and aesthetics. The modifications will amend apartments mix to more one bedroom units

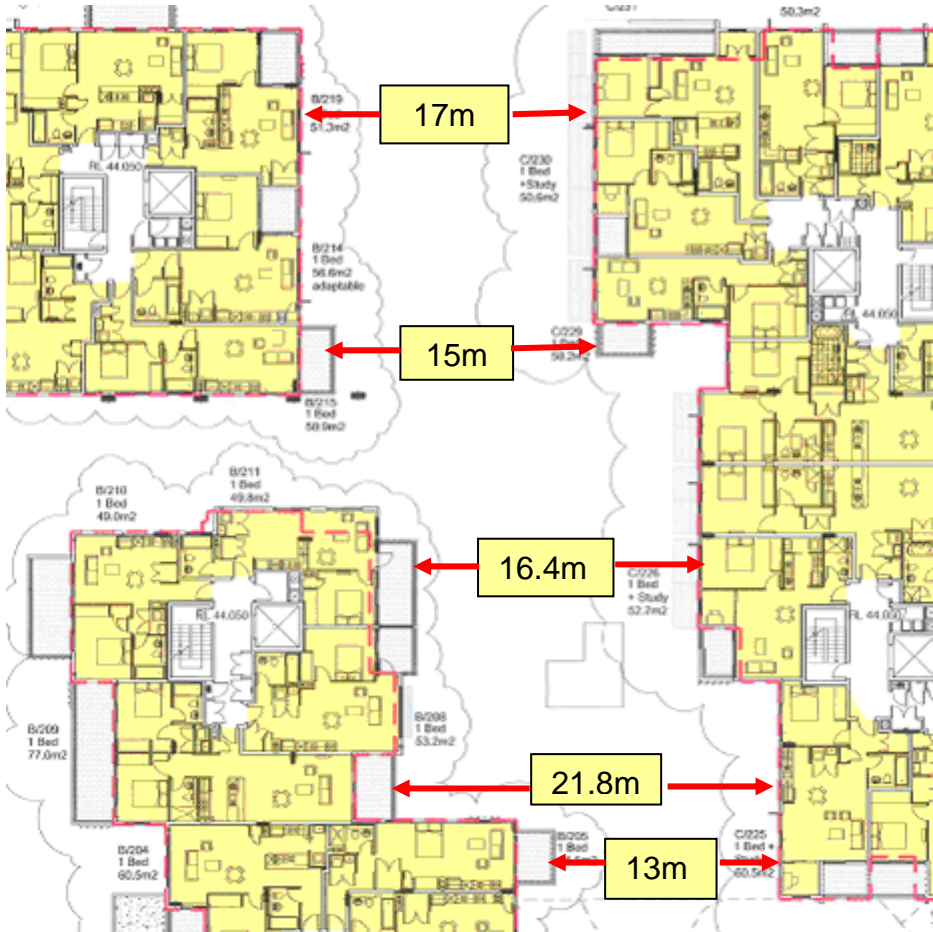
to cater for market demand. A mix of studio, 1 & 2 bedroom units are still being provided. These housing types should attract singles and young couples alike into an area which is highly accessible to public transport, the existing regional shopping centre, employment opportunities in Macquarie Park, as well as contributing towards housing affordability.

The design of the building has not been substantially altered with the proposed modifications in keeping with the existing identity of the Macquarie Park development.

Residential Flat Design Code

The SEPP also requires the Council to take into consideration the requirements of the Residential Flat Design Code. The following matters are considered relevant to the Section 96 application.

Primary Development Control and Guidelines	Comments	Comply
Building Separation Building separation for buildings up to 4 storeys should be: -12m between habitable rooms / balconies -9m between habitable / balconies and non-habitable rooms -6m between non-habitable rooms. Building separation for buildings Up to four storeys/12m should be: - 12m between habitable rooms/balconies - 9m between habitable and non-habitable rooms - 6m between non-habitable and non-habitable	<p>The building separation between Building B and Buildings A & D have not altered.</p> <p>The Section 96 proposes changes to the building envelope for both Buildings B & C. These changes will have impacts on the approved separation distances between the two buildings. The approved building separation between Buildings B and C ranges between 15m to 22.5m with the majority of the buildings separated by 17m.</p> <p>The separation distances between these two buildings will be reduced to between 13m and 22.5m as demonstrated on the diagram below.</p> <p>Part of the building will breach the recommended 18m separation for levels 5, 6 and 7. This is illustrated in the diagram below. The applicant has advised that overlooking will be overcome by privacy screens however no details in are shown on the plans.</p> <p>Condition 1B has been imposed to provide privacy screens on the proposed new north facing balconies on levels 5 & 6. With the imposition of this condition there will be no loss of amenity to the adjoining Building C.</p>	Yes

Primary Development Control and Guidelines	Comments	Comply
<p>5 to 8 storeys should be:</p> <ul style="list-style-type: none"> -18m between habitable rooms / balconies -13m between habitable / balconies and non-habitable rooms -9m between non-habitable rooms. <p>Developments that propose less distance must demonstrate that adequate daylight access, urban form and visual and acoustic privacy has been achieved.</p>		Variation acceptable
 <p>Building separation between buildings B and C</p>		
<p>Side & Rear Setbacks</p> <ul style="list-style-type: none"> - Design side and rear setbacks in conjunction with building separation, open space and deep soil zone controls. - Where the desired character is for a continuous street frontage, zero side setbacks are 	<p>The development is required to provide a 5m setback to the western side boundary. This amendment proposes to encroach into this 5m setback by provision of new west facing balcony on Levels 2 and up of Building B. The balcony will be set back 3m from the western boundary. Balconies can project into</p>	Yes

Primary Development Control and Guidelines	Comments	Comply
<p>appropriate.</p> <ul style="list-style-type: none"> - Where setbacks are limited by lot size and adjacent buildings, 'step in' the plan on deep building to provide internal courtyards and to the limit the length of walls facing boundaries. - In general, no part of a building or above ground structure may encroach into a setback zone. Exceptions are: <ul style="list-style-type: none"> - underground parking structures no more than 1.2 metres above ground and where the roof of the parking structure is a private or communal open space - balconies and bay windows. 	<p>the side or rear setback zones and in this instance there will be no overlooking concerns as the western elevation faces the new access ramp to the M2 Motorway.</p> <p>The development is also required to provide a 10m setback to the M2. The approved development is set back between 3m to a maximum of 12.5m. The variation to the required setback was accepted by the JRPP as there would be:</p> <ul style="list-style-type: none"> • No loss of amenity to residential neighbours. • The existing M2 motorway and its raised buffer/embankment would not be impacted upon. • At its closest the M2 ramp is 20m from the boundary and the main part of the M2 is further away. The area between the ramp and the building is landscaped. <p>The proposed amendment will result in the provision of new balconies along the northern elevation for Levels 1 and up of Building C. At its closest point one of the balconies will be setback 3m off the northern boundary. This variation is considered acceptable as there will be no additional impact from this amendment for the reasons outlined above.</p>	
<p>Landscape Design</p> <ul style="list-style-type: none"> -Improve the amenity of open space with landscape design -Contribute to streetscape character and the amenity of the public domain. -Improve the energy efficiency and solar efficiency of dwellings and the microclimate of private open spaces. -Contribute to water and stormwater efficiency by -Provide a sufficient depth of soil above paving slabs to enable growth of mature trees. -Minimise maintenance by using robust landscape elements. 	<p>The proposed amendments have altered the landscaping around Building B as it is proposed to extend/provide paving around some of the courtyards. The extent of additional paving will not significantly alter the amount of landscaping proposed nor impact on the visual impact of the development. The additional paving will improve the amenity of the occupants of these apartments that are affected by this change.</p>	Yes
<p>Visual Privacy</p> <p>Locate and orient new development to maximise visual privacy between buildings on site and adjacent buildings</p>	<p>As there is only a 15m & 13m separation between new north facing balconies of Building B and living areas of Building C,</p>	

Primary Development Control and Guidelines	Comments	Comply
<p>by:</p> <ul style="list-style-type: none"> - providing adequate building separation - employing appropriate rear and site setbacks - utilise the site layout to increase building separation by, for example, orienting buildings on narrow sites to the front and rear of the lot, thereby utilising the street width and rear garden depth to increase the separation distance. <p>Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to apartments by: inter alia,</p> <ul style="list-style-type: none"> - louvres or screen panels to windows and/or balconies 	<p>there is potential for overlooking. Condition 1B has been imposed requiring privacy screen to be provided along the northern elevation of the proposed new balconies (Apartments B505, 515 and 606 & 615).</p> <p>The new west facing balcony of Building B is not considered to pose any overlooking concerns as it faces the new access ramp to the M2. This is the same situation for the new north facing balconies on Building C which will overlook the M2 Motorway.</p>	Yes
<p>Building Entry Ensure equal access to all. Developments are required to provide safe and secure access. The development should achieve clear lines of transition between the public street and shared private, circulation space and the apartment unit.</p>	<p>The entries to each of the buildings have not been significantly altered with the buildings providing equal and safe access.</p>	Yes
<p>Parking Determine the appropriate car parking numbers. Where possible underground car parking should be provided.</p>	<p>The location of the parking will not be changed as a result of the Section 96. The amended development will not require additional parking to be provided however the allocation of parking spaces will be amended to provide for the required visitor spaces (Condition 102). The amendment will be in accordance with Council's DCP's requirements. See discussion below under DCP – Car Parking.</p>	Yes
<p>Apartment Layout Single-aspect apartments should be limited in depth to 8.0m from a window.</p> <p>Back of kitchen to be no more than 8m from window.</p>	<p><u>Building B:</u> 12% of the apartments are single aspect apartments with a depth exceeding 8m from a window however the back of kitchen is within the 8m distance to a window.</p> <p><u>Building C:</u> 13.4% of the apartments are single aspect apartments with a depth exceeding 8m however the back of kitchen is within the 8m distance to a window.</p> <p>The variation is considered acceptable as</p>	No – variation acceptable.

Primary Development Control and Guidelines	Comments	Comply
<p>The minimum sizes of the apartments should achieve the following:</p> <p>Studio – 38.5m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 95m²</p>	<p>these apartments will receive the required 3 hours solar access to the habitable rooms.</p> <p>7 of the 213 apartments do not achieve the minimum sizes as identified in the RFDC. These apartments are 1 bedroom apartments with the variation being relatively minor – 1m² or less. These apartments can achieve adequate levels of internal amenity with adequate bedroom size and space to allow for flexibility in furniture configuration. The non compliance is acceptable.</p>	No – variation acceptable
<p>Balconies Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind-can not be satisfactorily mitigated with design solutions. Require scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.</p>	<p>The proposed new west and east facing balconies on Building B will have a depth of approximately 1.6m. The balconies will be 1.6m x 4.8m (western balcony) and 1.6m x 5.2m (eastern balcony). The applicant has demonstrated that the proposed balconies are usable space with furniture within the reduced depth. Given that only two of the balconies on each level of Building B will not comply with the 2m width and that the proposed balconies are capable of being used with sufficient area for table and chairs, the proposed balconies sizes are considered acceptable.</p>	No – variation acceptable.
<p>Ground Floor Apartments Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.</p>	<p>Ground floor apartments have access off a common walkway. An adaptable apartment is located on the ground floor.</p>	Yes
<p>Internal Circulation In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Increase amenity and safety of circulation spaces by providing generous corridor widths and ceiling heights, appropriate levels of lighting including the use of natural daylight.</p>	<p>The apartments in Buildings B and C are accessed via 1, 3 or 2 lift cores respectively in each building. The number of apartments which are accessed off a lift corridor will not exceed 7.</p> <p>The development does not allow for natural daylight or ventilation to the internal corridor areas. However this is acceptable given that the corridors and lobbies will provide adequate amenity in terms of width sizes, ceiling heights and the number of units having access from the corridors</p>	Yes
<p>Storage In addition to kitchen cupboards</p>	<p>Storage is provided for each of the</p>	Yes

Primary Development Control and Guidelines	Comments	Comply
and bedroom wardrobes, provide accessible storage facilities at the following rates: - studio apartments 6m ³ - one-bedroom apartments 6m ³ - two-bedroom apartments 8m ³ - three plus bedroom apartments 10m ³	apartments. The applicant has submitted a revised schedule for Buildings B & C detailing storage (m ³) for each apartment. The amount of allocated storage varies from 6.1m ³ to 29m ³ . The development will meet the RFDC requirements.	
Daylight Access Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid winter. In dense urban areas a minimum of two hours may be acceptable. Limit the number of single aspect apartments with a southerly aspect to a maximum of 10% of the total units proposed.	63% of apartments in Building B and 72.16% of apartments in Building C will receive a minimum of 3 hours solar access. This equates to 67.13% which is below the requirements (shortfall of 6 apartments). However the majority of the apartments will receive a minimum of two hours. The proposal is located in a fairly dense urban environment and the proposed solar access is acceptable. The amended development will not exceed 10% of apartments with a single southerly aspect.	No - variation acceptable.
Natural Ventilation Building depths which support natural ventilation typically range from 10 to 18 metres. 60% of residential units should be naturally cross ventilated. 25% of kitchens should have access to natural ventilation.	61% of the apartments will be naturally cross ventilated.	Yes

State Environmental Planning Policy (Building Sustainability Index: BASIX)

Amended BASIX Assessment and Certificate No. 432727M-05 dated 21 September 2012 was submitted. Appropriate condition will be imposed requiring compliance with the amended BASIX commitments. See **Condition 3**.

Ryde Local Environmental Plan 2010

The following is an assessment of the proposed development against the applicable provisions from the Ryde Local Environmental Plan 2010.

Clause 2.3 Zone Objectives and Land Use Table

The site is zoned B4 Mixed Use under the provisions of the LEP 2010.

The objectives for the B4 Mixed Use zone are as follows:

- To provide a mixture of compatible land uses;
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize 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 recognize topography, landscape setting and unique location in design and land use.

The amended development will satisfy the above zone objectives. The amended development will still retain a mix of land uses and mix of unit types to cater for the different requirements of the community. The provision of residential and serviced apartments will add to the activation of the area and contribute to providing a vibrant and safe community. The amended development will not change any of the public domain conditions imposed on the original approval so the development will still maintain a safe and attractive environment for pedestrians. As the bulk, scale and massing of the development is not significantly changing the topography and landscaped setting of the development will be retained.

Clause 4.3 Heights of Buildings

The approved development exceeded the 21.5m height control as permitted by LEP 2010. The variation to the height control was assessed in the original assessment of the application. This amendment will reduce the overall approved height of Buildings B & C as follows:

	Approved Max. height to top of roof plant	Proposed new max height
Building B	29.5m RL 66.50	27.9m RL 64.90
Building C	28.45m RL 66.5	26.85m RL 64.90

Buildings B & C approved and proposed amendment to overall height.

The height of the plant rooms is lowered by 1.6m as such reducing the overall height of the two buildings by 1.6m. The proposed amendments results in a reduction in height and is considered acceptable.

Clause 4.4 Floor Space Ratio

The floor space ratio of a building is not to exceed the maximum floor space ratio as specified on the Floor Space Ratio Map. The floor space ratio map identifies the site as having a 2:1 floor space ratio.

Based on the above, the site may accommodate a maximum permitted floor space of 28,320m². The development proposes the following floor space:

Building A – 4,516.90m²

Building B – 7,578.50m²
Building C – 6,580.30m²
Building D – 8,221.06m²
Total – 26,896.76m²

This results in a floor space ratio of 1.9:1. The amended development does not exceed the maximum floor space ratio.

Clause 6.6 Macquarie Park Corridor

The consent authority must not grant consent for development on the land to which this clause applies unless it has considered whether the proposed development is consistent with the following objectives:

- To promote the corridor as a premium location for globally competitive businesses with strong links to the Macquarie University and research institutions and an enhanced sense of identity.
- To implement the State Government's strategic objectives of integrating land use and transport, reducing car dependency and creating opportunities for employment in areas supported by public transport.
- To guide the quality of future development in the corridor.
- To ensure that the corridor is characterised by a high-quality, well-designed and safe environment that reflects the natural setting, with three accessible and vibrant railway station areas providing focal points.
- To ensure that residential and business areas are better integrated and an improved lifestyle is created for all those who live, work and study in the area.

The amended development satisfies the above objectives.

Ryde Development Control Plan 2010

Clause 6.6 Macquarie Park Corridor

The consent authority must not grant consent for development on the land to which this clause applies unless it has considered whether the proposed development is consistent with the following objectives:

- To promote the corridor as a premium location for globally competitive businesses with strong links to the Macquarie University and research institutions and an enhanced sense of identity.
- To implement the State Government's strategic objectives of integrating land use and transport, reducing car dependency and creating opportunities for employment in areas supported by public transport.
- To guide the quality of future development in the corridor.
- To ensure that the corridor is characterised by a high-quality, well-designed and safe environment that reflects the natural setting, with

three accessible and vibrant railway station areas providing focal points.

- To ensure that residential and business areas are better integrated and an improved lifestyle is created for all those who live, work and study in the area.

The amended development satisfies the above objectives.

Ryde Development Control Plan 2010

Council adopted City of Ryde DCP 2010 on 16 June 2009 and its provisions became effective on 30 June 2010. The following sections of DCP 2010 are relevant to the proposed development:

Part 4.5 of DCP 2010 – Macquarie Park Corridor

This part of the DCP provides a framework to guide future development in the Macquarie Park Corridor, North Ryde. The DCP specifies built form controls for all development within the Corridor and sets in place urban design guidelines to achieve the vision for Macquarie Park as a vibrant community, as a place to live, work and visit.

Many of the requirements of this DCP are not applicable as the development involves a Section 96 Application. The following table demonstrates the relevant provisions of the DCP and the proposals compliance with these requirements.

Control	Comments
6.1 – General Built Form Controls	
Site Planning & Staging 1. Sites are to be planned to allow for the future provision of new streets and open spaces in accordance with Ryde LEP 2008 Amendment 1 – Access Network. 2. Buildings are to be sited to address existing and new frontages in the following order of precedence: a) Primary frontages: These are located along existing streets (typically Type 1 or 2 streets). b) Secondary frontages: these are generally existing, or new Type 2 or 3 streets. 3. Front door and street address is to be located on the primary frontage. Loading docks, vehicular access is not permitted to be located on the primary frontage unless it can be demonstrated that there is no alternative.	Talavera Road is identified as a primary frontage. Buildings B & C will be located behind Buildings A & D which addresses Talavera Road. The location of the buildings has not been altered. Talavera Road will still act as a major entry for pedestrians to access the Buildings B and C. No changes are proposed to vehicular access
Street Setbacks & Built-To Lines 1. Minimum setbacks and build-to lines	The DCP requires a 10 and 5m metre setback

Control	Comments
<p>must be provided as shown in Figure 4.5.83 of the DCP.</p> <p>a) Where minimum setbacks are shown, buildings may be set back further from the street according to specific site conditions.</p>	<p>to Talavera Road and Alma Road, respectively. No changes to these setbacks as part of this amendment.</p>
<p>Side & Rear Setbacks</p> <ol style="list-style-type: none"> 1. Buildings are to be set back 10m from a rear and 5m from a side site boundary. 2. Awnings, canopies, balconies, sun shading and screening elements can project into the side to rear setback zones. 3. Basement car park structures should not encroach into the minimum required side or rear setback zone unless the structure can be designed to support mature trees and deep root planting. 	<p>See Discussion above – SEPP 65</p>
<p>Building Separation</p> <ol style="list-style-type: none"> 1. Provide a minimum 20m separation between buildings facing each other within a site. 2. Provide a minimum 10m separation between buildings perpendicular to each other within a site. This reduced building separation control only applies where the width of the facing facades does not exceed 20m. 	<p>See Discussion above under SEPP 65</p> <p>The new north facing balconies on Building B, due to the reduced separation distance will have the potential to overlook into Building C apartments. Part of the building will breach the recommended building separation required under RFDC and the applicant has advised that appropriate screening has been applied to the units to ensure that overlooking will not occur. However there does not appear to be any screening. Condition 1B has been imposed to provide privacy screens on apartments B505, 515, 605 & 615 north facing balconies.</p>
<p>Building Articulation</p> <ol style="list-style-type: none"> 1. Facades are to be composed with an appropriate scale, rhythm and proportion, which respond to the building use and the desired character by: <ol style="list-style-type: none"> a) Defining a base, middle and top related to the overall proportion of the building. b) Expressing key datum lines in the context using cornices, a change in materials or building setback. c) Expressing the internal layout of the building, for example, vertical bays or its structure, such as party wall divisions. d) Expressing the variation in floor to floor height, particularly at the lower 	<p>Appropriate articulation has been added to each of the buildings. Articulation has been provided in respect of balconies and the use of different materials and colours, as per approved.</p> <p>Additional balconies have been introduced to Buildings B & C which improves the building articulation from the approved development.</p>

Control	Comments
<p>levels.</p> <p>e) Articulating building entries with awnings, porticos, recesses, blade walls and projecting bays.</p> <p>f) Incorporating architectural features which give human scale to the design of the building at street level. These can include entrance porches, awnings, pergolas and fences using recessed balconies and deep windows to create articulation and define shadows thereby adding visual depth to the façade.</p>	
<p>Environmental Performance</p> <p>1. Commercial development is required to achieve a 4 Star Green Star Certified Rating.</p> <p>2. Development is required to comply with Section 6.1.7 of the DCP (Building Bulk).</p> <p>3. Residential development is to comply with BASIX requirements.</p>	<p>Amended BASIX Certificate has been submitted for Buildings B & C and complies with the BASIX requirements.</p>
6.2 – Private & Communal Open Space	
<p>Landscaping & Communal Courtyards</p> <p>1. A minimum 30% of the developable area of the site is to be provided as Landscaped Area.</p>	<p>The approved development exceeds the minimum landscaped area with approximately 71% of the site being landscaped. The proposed amendment will not significantly alter the landscaped area.</p>

Part 9.3 of DCP 2010 - Car Parking

The last approval for amendment to the development (Mod 2012/118 which changed the use of the hotel to service apartments) amended Condition 102 to read as follows to reflect the amended car parking rates:

102. **Off Street Car parking.** *325 off-street car spaces being provided in accordance with the submitted plans. Such spaces to be paved, line marked and made freely available at all times during business hours of the site for staff and visitors. These spaces are to be allocated as follows:*

- *100 spaces for the serviced apartments.*
- *188 spaces for the residents of the residential buildings.*
- *37 residential visitor spaces.*

Council's current rates for residential is as follow:

- Studio and 1 bedroom units – 0.6 to 1 space per dwelling
- Two bedroom units – 0.9 to 1.2 spaces per dwelling
- 3 bedroom units – 1.4 to 1.6 per dwelling

- Visitors – 1 space per 5 units.

The number of car parking spaces on site (325 spaces) is not proposed to be altered however it is proposed to amend the residential unit mix (Buildings B & C) as follows:

Building B:	2 x studio	Building C	0 x studio
	80 x 1 bed		48 x 1 bed
	16 x 1 bed + study		35 x 1 bed + study
	<u>18 x 2 bed</u>		12 x 2 bed
			<u>2 x 2 bed + study</u>
Total	116		97

213 residential units (an increase of 31 apartments from the original approval) are proposed to be provided for Buildings B & C.

Based on the above, 43 visitor car parking and between 137 to 218 residents' parking spaces are required to be provided. Accordingly, Condition 102 is to be amended to read:

102. Off Street Car parking. *325 off-street car spaces being provided in accordance with the submitted plans. Such spaces to be paved, line marked and made freely available at all times during business hours of the site for staff and visitors. These spaces are to be allocated as follows:*

- 100 spaces for the serviced apartments.
- 182 spaces for the residents of the residential buildings.
- 43 residential visitor spaces.

Part 9.2 of DCP 2010 – Access for People with Disabilities

Condition 30 of the development consent was amended as part of Modification 2012/118 (change the use and layout of the hotel building and residential Building A to serviced apartments). The modified condition required disabled access to be provided to and within the development in accordance with the recommendations contained in the Access Review prepared by Morris –Goding Accessibility Consulting dated 28 June 2012. One of these recommendations was that the development provides an additional 12 adaptable residential units in Building B & C in accordance with AS4299 and Ryde Council DCP. This was reflected in the wording of Condition 30.

Council's DCP requires that 10% of the apartments are to meet the specifications for the Adaptable Housing Standard AS4299. As the number of apartments is increasing to 213, 21 adaptable units are required. The applicant has provided a letter from Morris Goding Accessibility dated 2 November 2012 stating that 22 adaptable apartments will be provided in accordance with AS4299 and Council's DCP. This will satisfy Council's

requirements, however it will be necessary to amend the wording of Condition 30 to reflect this change.

The Access Review prepared by Morris-Goding dated 28 June 2012 looked at the access for people with disabilities to the whole development, including Buildings B & C. This Section 96 does not alter the path of travel, site access, common area access and parking within the site. In addition, entry to Building B & C and the corridor areas have not been substantially altered, therefore the above Access Review is applicable to this amendment.

Accordingly Condition 30 of the consent is to be amended to read:

30. ***Disabled Access.*** *Disabled access is to be provided to and within the development in accordance with the recommendations contained within the Access Review prepared by Morris-Goding Accessibility Consulting dated 28 June 2012 and letter of 2 November 2012. In particular the following recommendations are required to be implemented:*

- *A total of twenty one (21) adaptable units are to be provided in Buildings B & C and are to be compliant with the Adaptable Housing Code – AS4299 and Council's DCP.*
- *Provide an accessible path of travel from the pedestrian site boundary to the entry of the serviced apartments lobby compliant with AS1428.1:2009 and Council's DCP.*
- *Ensure all dual-hinged entry doors have a minimum 850mm clear width compliant with AS1428.1:2009 and Council's DCP.*
- *Provide 4 additional adaptable unit car bays, compliant with AS4299 and Council's DCP.*
- *Ensure adaptable unit car bays have a minimum 3800mm clear width compliant with AAS4299.*

Details indicating compliance with these recommendations plus any other recommendations in the above report are to be submitted to the Principal Certifying Authority (PCA) prior to the construction certificate being issued.

Prior to occupation of the development, a suitably qualified access consultant is to certify that the development complies with Australian Standard 1428 and the Building Code of Australia.

Section 94 Development Contributions Plan 2007 (Amendment 2010)

Development Contributions Plan – 2007 (2010 Amendment) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density/ floor area. Condition 19 required the payment of various contributions. On 10 June 2012, the following contributions were paid:

Community and Cultural Facilities	\$661,297.90	
Open Space and Recreation Facilities	\$2,126,765.95	
Civic and Urban Improvements	\$402,013.18	
Roads and Traffic Management Facilities	\$359,766.94	
Cycleways	\$55,558.11	
Stormwater Management Facilities	\$41,182.85	
Plan Administration	\$14,962.54	
Grand Total		\$3,661,547.47

Table 10. Section 94 Contribution Paid.

This section 96 modification will amend the S94 calculation by changing the unit mix. The proposed unit mix for Buildings B & C are as follows:

1 bedroom	172
2 bedroom	40
3 bedroom	1

Note: Studies in apartments BG02, B104, B114, B311 & up, B310 & up, B710, C135, C124 and C735 have been considered as being capable of being converted to a bedroom given its size and location.

The amended Section 94 is as follows:

Community and Cultural Facilities	\$726,622.30	
Open Space and Recreation Facilities	\$1,877,791.36	
Civic and Urban Improvements	\$494,788.91	
Roads and Traffic Management Facilities	\$455,022.88	
Cycleways	\$68,356.76	
Stormwater Management Facilities	\$52,351.59	
Plan Administration	\$18,384.15	
Grand Total		\$3,693,317.95

There is an increase of \$31,770.48 from the original S94 payment to the proposed amendments. Accordingly **Condition 19** will be amended to reflect the new contribution amount and the difference to be pay prior to issue of Construction Certificate.

7. LIKELY IMPACTS OF THE DEVELOPMENT

The proposed modification of consent relates to the approved Buildings B & C and any impacts associated with the amended development have already been addressed in the report.

8. SUBMISSIONS

In accordance with DCP 2010 Part 2.1 Notice of Development Applications, the application was notified between 10 October and 25 October 2012. In response, no submissions were received.

9. REFERRALS:

Road & Maritime Services: The proposal was referred to Road & Maritime Services for comments. RMS has reviewed the S96 modifications and has raised no objections to the proposed amendments.

NSW Office of Water: The proposal was referred to NSW Office of Water for comments. NSWOW has raised no objections to the proposed amendments.

10. PROPOSED AMENDMENTS TO THE CONDITIONS OF CONSENT

As a result of the Section 96 certain conditions are required to be amended. These conditions are discussed below:

Condition 1- Approved Plans

It is proposed to amend this condition to reflect the current plans.

Condition 1A - Staging of Work.

Condition 1A was previously imposed to allow the applicant to construct the work in various stages. This condition identified which conditions of consent must be satisfied prior to the issue of a particular Construction Certificate. Condition 19 required the payment of the Section 94 Contributions. This was required prior to Stage 1A which related to the installation of shoring walls and associated works around the whole development site. As detailed earlier in the report, the Section 94 contribution had been paid by the applicant. As this Section 96 application increases the required S94 payment, it is proposed to amend Condition 1A to require the additional payment prior to the issue of a Construction Certificate for Stage 5 which relates to the construction of fitout works above ground level.

Condition 3 and 80 - BASIX and BASIX Commitments

It is proposed to amend the wording of these conditions to reference to the current BASIX Certificate for Buildings B & C.

Condition 19 - Section 94 Contribution

Condition 19 related to the required Section 94 to be paid for the development. The figures in this condition are to be amended to reflect the proposed amended development.

Condition 30 - Disabled Access

It is proposed to amend the wording of this condition to delete one of the recommendation requiring the addition of 12 adaptable units and include reference to the letter prepared by Morris-Goding Accessibility Consulting dated 2 November 2012.

Condition 102 - Off street Car Parking

This condition will be amended to reflect the car parking required for each use within the development as amended by this development.

Additional Condition 1B

In addition to the above amendments, an additional condition is to be included on the consent. As the separation between Building B & C have been reduced the imposition of this new condition will ensure privacy is maintained between the buildings.

1B.Privacy Screens. To maintain privacy between Buildings B & C the new north facing balconies of Building B, off apartments B505, B515, B605 & B615 are to be provided with a privacy screen on the northern elevation of the balcony. Details of the privacy screen is to be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

9. CONCLUSION

The application satisfies the requirements of Section 96(2) of the Environmental Planning and Assessment Act, 1979 and does not raise any additional matters referred to in Section 79C of the above act. The application is recommended for approval.

10.RECOMMENDATIONS

That the Sydney East Region Joint Regional Planning Panel as the consent authority modify its development consent DA2011/0485 dated 15 March 2012 in respect of a mixed use development at 84-92 Talavera Road, Macquarie Park under the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979 subject to the following amendments:

A. That conditions 1, 1A, 3, 19, 30, 80 and 102 be amended to read as follows:

1.Approved Plans. Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Plan Location	15/11/112	A-0002/06
Parking Level 1 – ARCH 200	25/6/12	A0010 Rev A
Plan Level Ground	15/11/112	A-0004/11
Plan Level 1	15/11/112	A-005/09
Plan Level 2	15/11/112	A-0006/07
Plan Levels 3-6	15/11/112	A-0007/06
Plan Level 7	15/11/112	A-0008/06

Plan Level 8	15/11/112	A-0009/06
Plan Level 9	15/11/112	A-0010/06
Plan Roof Level	15/11/112	A-0011/06
Context Sections AA & BB	15/11/112	A-0140/05
Context Sections CC & DD	15/11/112	A0141/05
Section AA Section BB	15/11/112	A-0040/05
Section CC Section DD	15/11/112	A-0041/05
Section EE	31/08/12	A-0042/04
Street Elevations	31/08/12	A-0181/03
Street Elevations	31/08/12	A-0182/03
Materials Elevation A	12/9/12	A-0130 Rev 02
Materials Elevation B	26/8/11	A-0131 Rev 01
Materials Elevations C	26/8/11	A-0132 Rev 01
Materials Elevation	12/9/12	A-0133 Rev 02
Elevations A	12/9/12	A-0030 Rev 05
Elevations B	31/08/12	A-0031/04
Elevations C	31/08/12	A-0032/04
Elevations D	12/9/12	A-0033 Rev 04
Cover Sheet	18/07/12	000 Issue G
Colour Landscape Plan	18/07/12	001 Issue G
Podium Level Landscape Plan	18/07/12	101 Issue G
Ground Floor Landscape Plan	18/07/12	102 Issue G
Landscape Details	18/07/12	501 Issue G
Excavation Plan	11/5/12	E-2000 REV 1

- 1A (a) The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a construction certificate for each stage as follows:

Stage	Description of the Stage	Specific Condition
1A	Includes installation of shoring walls and associated works around the whole development site.	21, 22, 23, 47, 51; 56
1AB	Controlled Activity Approvals. Includes installation of the shoring walls and associated works within a 40 metre radius of the natural creek	12, 110 to 123
1B	Includes ground preparation, piling and excavation over the whole development.	43, 44; 49; 50
2	Includes the construction of structures from basement to ground level.	8; 11; 26, 35, 42, 45, 46, 48
3	Includes the construction of structures above ground level.	36
4	Includes the construction of fit out	38, 39, 51a

	works from basement to ground level.	
5	Includes construction fit out works above ground level.	3, 19, 25; 27; 28; 29; 30, 31; 33; 34, 40, 51a

3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 432727M dated 21 September 2012.

The fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the Construction Certificate.

19. **Section 94 Contributions.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any Construction Certificate:

Community and Cultural Facilities	\$726,622.30	
Open Space and Recreation Facilities	\$1,877,791.36	
Civic and Urban Improvements	\$494,788.91	
Roads and Traffic Management Facilities	\$455,022.88	
Cycleways	\$68,356.76	
Stormwater Management Facilities	\$52,351.59	
Plan Administration	\$18,384.15	
Grand Total		\$3,693,317.95

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

The difference in the original S94 contribution paid on 10 June 2012 and the amended contribution is to be made to Council prior to the issue of any Construction Certificate.

30. **Disabled Access.** Disabled access is to be provided to and within the development in accordance with the recommendations contained within the Access Review prepared by Morris-Goding Accessibility Consulting dated 28 June 2012 and letter of 2 November 2012. In

particular the following recommendations are required to be implemented:

- A total of twenty one (21) adaptable units are to be provided in Buildings B & C and are to be compliant with the Adaptable Housing Code – AS4299 and Council's DCP.
- Provide an accessible path of travel from the pedestrian site boundary to the entry of the serviced apartments lobby compliant with AS1428.1:2009 and Council's Access DCP.
- Ensure all dual-hinged entry doors have a minimum 850mm clear width compliant with AS1428.1:2009 and Council's Access DCP.
- Provide 4 additional adaptable unit car bays, compliant with AS4299 and Council's DCP.
- Ensure adaptable unit car bays have a minimum 3800mm clear width compliant with AAS4299.

Details indicating compliance with these recommendations plus any other recommendations in the above report are to be submitted to the Principal Certifying Authority (PCA) prior to the construction certificate being issued.

Prior to occupation of the development, a suitably qualified access consultant is to certify that the development complies with Australian Standard 1428 and the Building Code of Australia.

80. **BASIX Commitments.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 432727M dated 21 September 2012.

102. **Off Street Car parking.** 325 off-street car spaces being provided in accordance with the submitted plans. Such spaces to be paved, line marked and made freely available at all times during business hours of the site for staff and visitors. These spaces are to be allocated as follows:

- 100 spaces for the serviced apartments.
- 182 spaces for the residents of the residential buildings.
- 43 residential visitor spaces.

B. The following additional conditions be included on the consent:

1B. **Privacy Screens.** To maintain privacy between Buildings B & C the new north facing balconies of Building B, off apartments B505, B515, B605 & B615 are to be provided with a privacy screen on the northern elevation of the balcony. Details of the privacy screen is to be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

Report prepared by:

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