



Planning Assessment Report

Application to Modify Development Consent

MOD 141-09-2005 modifying DA 99-03-2003

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application Modification number MOD 141-09-2005 modifying DA 99-03-2003 under section 96(1A) of the Act lodged by Walker Construction Group Pty Ltd on 07/09/2005.

The application seeks to modify Development Application DA 99-03-2003 approved by the Minister on 9 September 2003.

The site is located at 1 Mary St, Rhodes in the Canada Bay Local Council area.

The Minister for Planning is consent authority for modifications to consents the Minister has granted.

It is recommended that the modification application be **approved**.

1.1 *Relevant approvals / modifications:*

Prior to the gazettal of SREP 29, Concord Council granted consent to the remediation of land at 1 Mary St Rhodes in DA 98/99.

After the gazettal of SREP 29, the Minister granted consent to:

- DA 99-3-2003 for a residential development comprising 223 residential units approved on 9 September 2003.
- MOD 110-11-2003 approved by the Minister on 12 August 2003 correcting the Section 94 Contributions.

2 THE PROPOSED MODIFICATIONS

The applicant is seeking to modify the approved development as follows:

- Amend Condition D6 – Hours of Work to extend the hours of construction.

3 STATUTORY FRAMEWORK

3.1 *Statement of permissibility*

The development is permissible within the Residential and Mixed Use zones under clause 11 of SREP 29.

3.2 *Instrument of consent and other relevant planning instruments*

Pursuant to clause 5 of SREP 29, the Minister is the consent authority for development on land within Rhodes Peninsula.

The environmental planning instruments, draft environmental planning instruments, development control plans, and regulations applicable to the land to which the development application relate are as follows:

- *State Environmental Planning Policy No.1—Development Standards (SEPP 1),*
- *State Environmental Planning Policy No.11—Traffic Generating Development (SEPP 11),*
- *State Environmental Planning Policy No.32—Urban Consolidation (Redevelopment of Urban Land) (SEPP 32),*
- *State Environmental Planning Policy No.55—Remediation of Land (SEPP 55),*
- *State Environmental Planning Policy No.56—Sydney Harbour Foreshores and Tributaries (SEPP 56),*
- *State Environmental Planning Policy No.65—Design Quality of Residential Flat Buildings (SEPP 65),*
- *Sydney Regional Environmental Plan No.22—Parramatta River (SREP 22),*
- *Sydney Regional Environmental Plan No.29—Rhodes Peninsula (SREP 29),*
- *Renewing Rhodes Development Control Plan (Rhodes DCP),*
- *Sydney Harbour and Parramatta River Development Control Plan for SREP No.22 and SREP No.23 (Sydney Harbour and Parramatta River DCP), and*
- *Renewing Rhodes S94 Contribution Framework Plan (Rhodes S94 Plan).*

3.3 Legislative context

The development is local development pursuant to Section 79 of the Act and SREP 29.

The development was integrated and advertised development pursuant to section 91 of the Act. Approval was sought for the development under the *Rivers and Foreshores Improvement Act, 1948* for excavations within 40 metres of Sydney Harbour and its tributaries.

Approval is not deemed necessary for this modification under Section 96 of the Act.

4 CONSULTATION / PUBLIC EXHIBITION

Consultation of the proposal was not considered necessary given the minor nature of the modification

4.1 Council

The application was not referred for comment due to the minor nature of the modification.

4.1.1 Integrated Approval Bodies

The parent development application was integrated under Part 3A of the Rivers and Foreshores Improvement Act, 1979 and the Waterways Authority issued general terms of approval for the development. The Waterways Authority were not advised of the modification as the extent of the modification did not involve general terms of approval they issued.

4.2 Internal consultations

Given the extent of the modification, internal consultations with Sydney Region East were not conducted. The reason for this was that alteration in the modification did not affect those matters concerning height that Sydney Region East advised on previously

5 CONSIDERATION

5.1 Section 96

The application is considered to meet the prerequisites of Section 96(1A) of the Act in that the proposed modifications are considered to be of minimal environmental impact, and that the development as modified is considered to be substantially the same development as that to which consent was originally granted.

5.2 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. It is considered that the proposed development complies with the statutory controls and the relevant aims and objectives.

Relevant issues requiring further consideration are addressed below:

5.3 Issues

5.3.1 Noise

- Issue:* The proponent proposes to extend the hours of work so that internal fit-out work may be carried on 24 hours a day, 7 days a week. Increased hours of work will add to noise levels in the area affecting the amenity of local residents.
- Raised by:* Urban Assessments
- Consideration:* The type of work proposed is internal however it is predicted that works being carried on in the very early hours of the morning may still impact on noise levels. In particular the loading and unloading of vehicles and the use of power tools. The development on Shoreline Drive is now occupied by residents and it is considered within their interests to restrict working hours.
- Resolution:* It is considered appropriate to extend construction hours with reference to the neighbouring Rhodes Shopping Centre current opening hours (see attachment 1).
It will be a condition of the consent that the applicant notify residents in the area of the modification to inaudible working hours by mail and provide a complaint monitoring system and telephone contact number.

5.3.2 Traffic

- Issue:* Extending construction times will increase traffic and decrease available parking conflicting with the retail use of the neighbouring property.
- Raised by:* Urban Assessments
- Consideration:* In particular Sunday is, by the applicant's own separate claim, a busy time of use for the bulky goods store and traffic management is a problem. Construction traffic will conflict with this and the applicant has not addressed these impacts.
- Resolution:* It is considered acceptable to extend the hours of work however it will be a condition of the consent that work is not to be carried out on Sundays.

6 CONCLUSION

The Minister for Planning is consent authority for modifications to consents he has granted.

The proposed development as modified is considered to be substantially the same development as that originally approved.

The application has been considered with regard to the matters raised in section 79C of the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development as modified is acceptable and should be approved.

7 RECOMMENDATION

It is recommended that the Minister for Planning pursuant to Sections 81 and 96(1A) of the *Environmental Planning and Assessment Act, 1979* and clause 122 (2) of the *Environmental Planning and Assessment Regulations, 2000*:

- (A) **approve** the application subject to conditions (tagged “A”), and
- (B) authorise the Department to carry out notification of determination of the application to modify the consent.

For Ministerial Approval
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