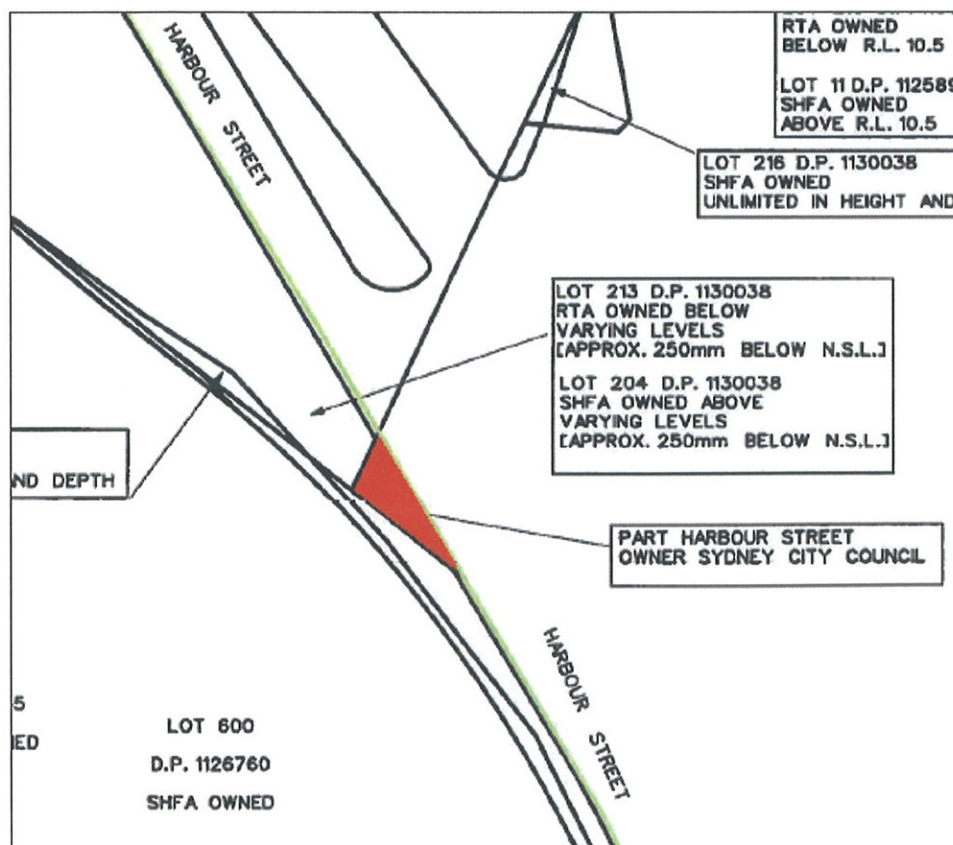


**SECTION 75W MODIFICATION
APPLICATION
PUBLIC DOMAIN WORKS, DARLING
WALK, DARLING HARBOUR**

MP 08_0093 (MOD 2)

Modification of Minister's Approval under section 75W
of the *Environmental Planning and Assessment Act*
1979

June 2010



© Crown Copyright June 2010
NSW Department of Planning
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

1. INTRODUCTION

This is a report on an application seeking to modify the project application (MP 08_0093) for public domain construction works, augmentation works to the Bathurst Street footbridge and road works within the site boundary of the Darling Walk site, Darling Harbour.

The Darling Walk site is situated west of Harbour Street, south of the Western Distributor fly-over, north of the Chinese Garden and east of Tumbalong Park (see **Figure 1**). The site is located within the Darling Harbour precinct and is located within the City of Sydney Local Government Area (LGA). The site comprises of an area of approximately 32,900m².



Figure 1 – Location of the Darling Walk site

On 9 July 2008, the Minister for Planning approved a concept plan (MP 06_0054) for the redevelopment of the Darling Walk site to provide for commercial and retail floorspace, private and public car parking spaces, public domain improvements and an approvals pathway for subsequent stages of the development under Part 4 of the EP&A Act.

On 8 March 2010, the Minister for Planning approved the project application (MP 08_0093) for public domain construction works, augmentation works to the Bathurst Street footbridge and road works within the site boundary of the Darling Walk site.

2. PROPOSED MODIFICATION

On 14 May 2010, JBA Urban Planning Consultants Pty Ltd on behalf of Lend Lease Development Pty Ltd, submitted a modification application under section 75W of the EP&A Act to modify the approval in relation to the proposed works at the Harbour Street and Day Street intersection being road resurfacing, kerb guttering and paving. The City of Sydney Council (CoSC) owns a small parcel of land where part of the works are proposed (see **Figure 3**). While proposed under the project application, this component of the project application never received landowner's consent from the CoSC. The CoSC has now provided landowner's consent and therefore the modification seeks to incorporate the area owned by CoSC.

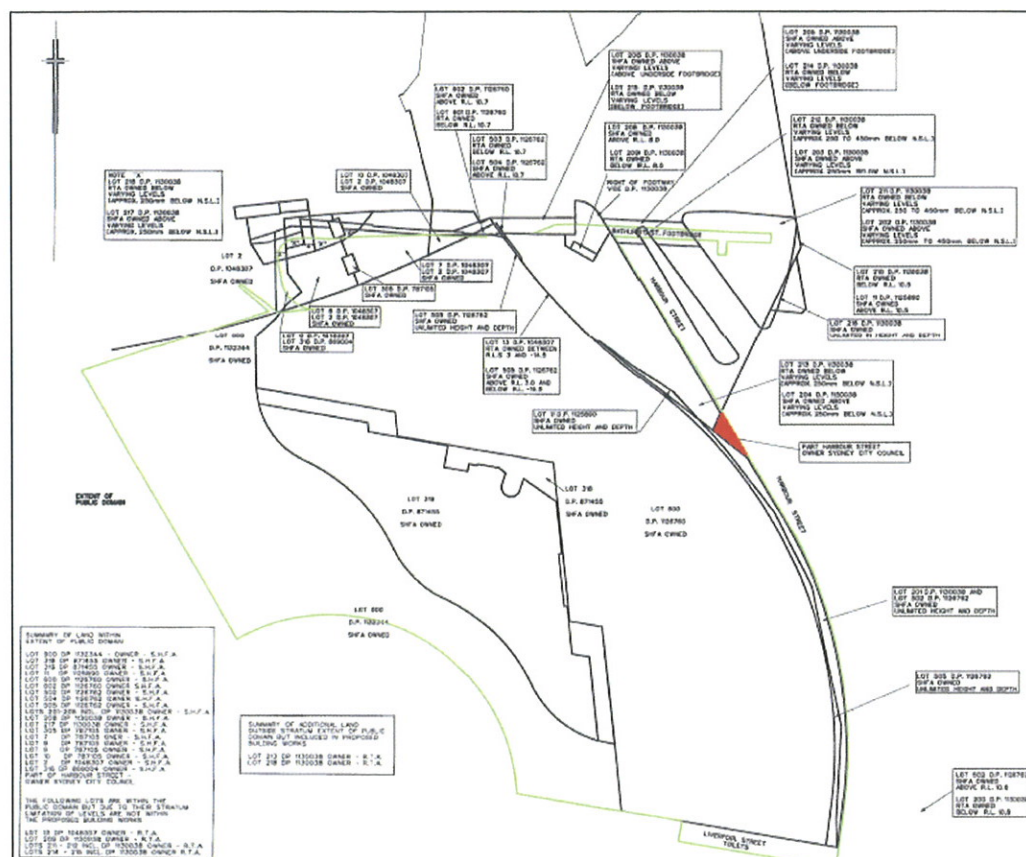


Figure 3 – Darling Walk Land Ownership Plan (land owned by the CoSC is highlighted in red)

3. STATUTORY CONTEXT

3.1 MODIFICATION OF A MINISTER'S APPROVAL

Section 75W(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides that a proponent may request the Minister to modify the approval of a project. The Minister's approval is not required if the project as modified will be consistent with the original approval. As the application seeks to incorporate an area of land which did not have landowner's consent, the modification request requires approval.

3.2 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRs)

Section 75W(3) of the EP&A Act provides the Director General with scope to issue environmental assessment requirements (DGRs) that must be addressed with respect to the proposed modification. As the modification application relates to an administrative amendment, the Department considered it unnecessary to re-issue the DGRs.

While section 75W of the EP&A Act does not require a modification application to be publicly exhibited, the application was placed on the Department's website in accordance with section 75X(2)(f) of the EP&A Act and clause 8G of the *Environmental Planning and Assessment Regulation 2000*. The CoSC was not notified of the modification application as the modification application solely sought to include landowner's consent and the CoSC had provided it prior to the lodgement of the modification application with the Department.

3.4 PERMISSIBILITY

The proposal is consistent with the objectives of the DHDP as it encourages the development of tourist, educational, recreational, entertainment, cultural and commercial facilities.

4. CONSIDERATION OF PROPOSED MODIFICATIONS

The proposed modification seeks to amend the approval to incorporate the proposed works being road resurfacing, kerb guttering and paving on the CoSC land (see **Figure 4**). Although these works were approved as part of the project application, the CoSC land cannot form part of the approval as landowner's consent had not been obtained prior to the Minister's determination which identifies and lists the land owned by the CoSC as 'Part of Harbour Street' in Schedule 1 of the Instrument of Approval.

The proposed works to be undertaken on the CoSC land are road resurfacing, kerb guttering and paving. Similar works were approved across the Darling Walk site as part of the project application and were considered to improve the public domain and not pose any adverse impacts.

The Department considers the modification to be administrative in nature and accordingly would not pose any additional impacts.

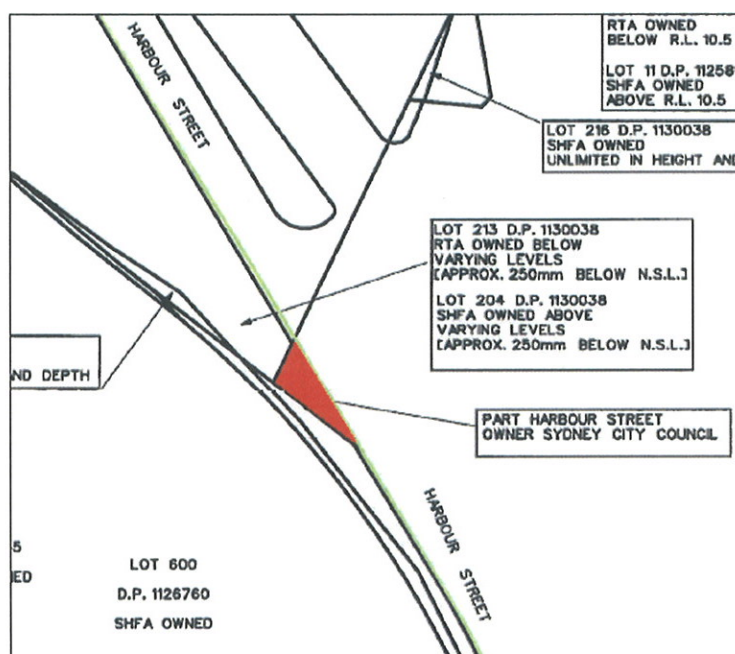


Figure 4 – Subject land owned by CoSC (highlighted in red)

5. CONCLUSION

The Department considers that the modification request is acceptable and appropriate given it is administrative in nature and will not result in any additional impacts. As such, the modification is supported.

6. DELEGATION

Under the Instrument of Delegation dated 25 January 2010, the Minister delegated his functions under section 75W of the EP&A Act to the Director, Government Land and Social Projects, where there are fewer than 10 public submissions in the nature of objections in respect of the modification request. As there were no public submissions, the modification application can be determined under delegation.

7. RECOMMENDATION

It is recommended that the Director, as delegate for the Minister for Planning:

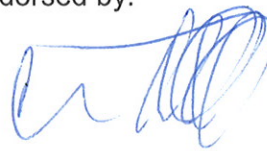
- (a) **Consider** the findings and recommendations of this report; and
- (b) **Approve** the modification, under section 75W of the *Environmental Planning and Assessment Act 1979*; and
- (c) **Sign** the attached Instrument of Modification Approval (**TAG A**).

Prepared by:



George Mobayed
Planning Officer
Government Land & Social Projects

Endorsed by:



Cameron Sargent
Team Leader
Government Land & Social Projects



10/6/10

Daniel Keary
Director
Government Land & Social Projects