



Planning & Infrastructure

MODIFICATION REQUEST:

***Garvan St Vincent's Campus Cancer Centre,
Darlinghurst***

***MP 09_0011 MOD 1 – Modifications to
building alignment; northern façade signage
and ground floor tenancy use***

Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

November 2012

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Published November 2012
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

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1. BACKGROUND

1.1 The site

St Vincent's & Mater Health Sydney (the Proponent) has lodged an application to modify the approved Project Application MP 09_0011, pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (the Act). The application seeks to alter the approved boundary alignment of the development; modify the lighting technique for the northern façade signage; and alter the approved use of a ground floor retail tenancy, fronting Victoria Street, to a café.

The subject site is located at 362-382 Victoria Street, Darlinghurst, as shown in **Figure 1**. It is approximately 2 kilometres south west of the Sydney CBD and adjacent to St Vincent's Hospital. The site forms the western portion of the St Vincent's Research Precinct which generally comprises of the land bound by Victoria Street, Liverpool Street, West Street and Burton Street. The site is within the City of Sydney Local Government Area.

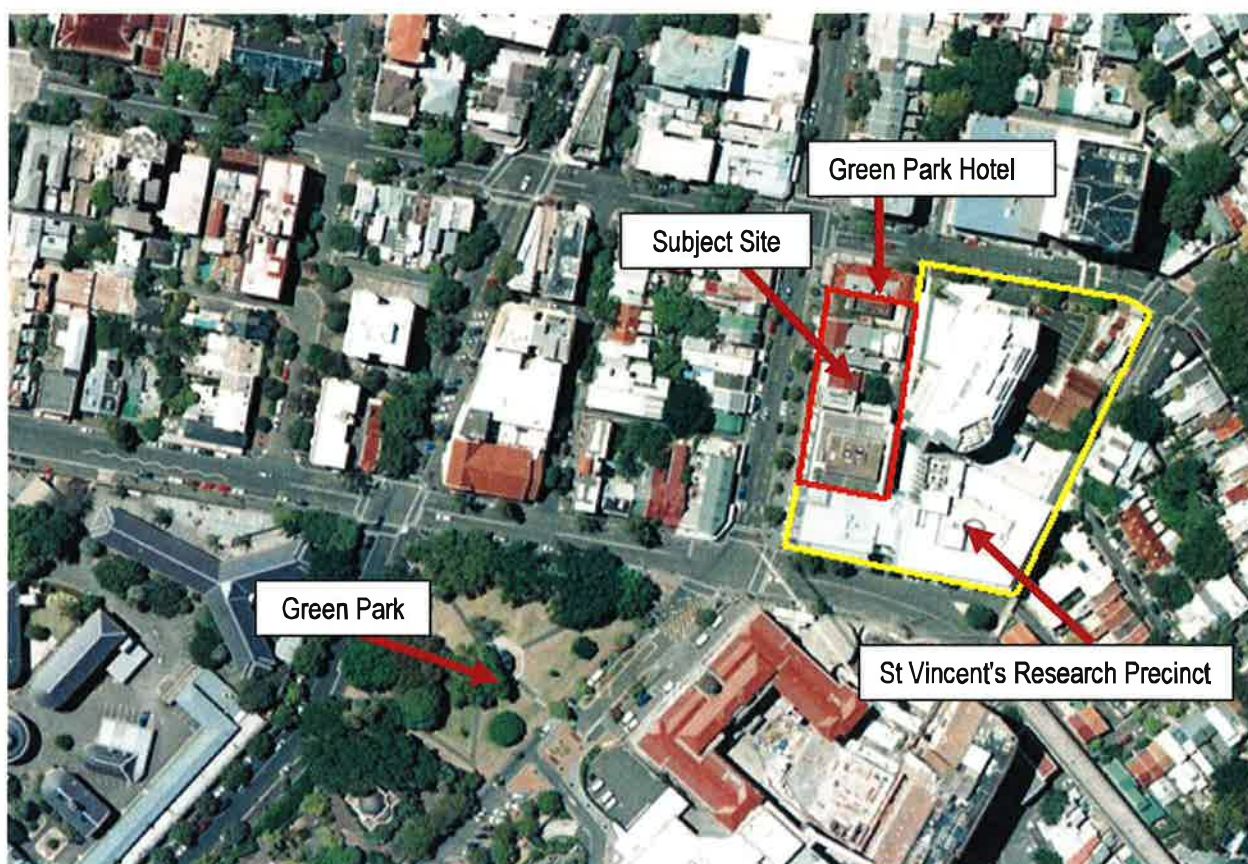


Figure 1: Site and location

1.2 Previous Approvals

On 12 January 2010, the then Minister for Planning approved a Project Application (MP 09_0011) for the construction and operation of a medical research facility comprising of 9 above ground levels; 1 basement laboratory level and 4 basement car parking levels. The approval also included the demolition of existing buildings; earthworks; subdivision; and landscaping.

2. PROPOSED MODIFICATION

This application seeks to modify the project approval as follows:

- alter the approved boundary alignment of the development;
- illuminate the northern façade signage; and
- alter the approved use of a ground floor retail tenancy, fronting Victoria Street, to a café.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify the Project Approval

In accordance with Clause 3 of Schedule 6A of the Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the Act.

3.2 Modification of the Minister's Approval

The modification application has been lodged with the Director General pursuant of Section 75W of the Act. Section 75W provides for the modification of a Minister's approval.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to amend the conditions of approval as originally approved and therefore, approval to modify the application is required.

3.3 Environmental Assessment Requirements (DGRs)

Section 75W(3) of the EP&A Act provides that the Director-General may notify the proponent of environmental assessment requirements (DGRs') with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the proponent of environmental assessment requirements pursuant to Section 75W(3) with respect to the proposed modification, as suitable information was provided to the department to consider the application.

3.4 Delegation

On 14 September 2011, the Minister for Planning and Infrastructure delegated his powers and functions under Section 75W of the Act to the Directors in the Major Projects Assessment branch where:

- the relevant Council has not made an objection;
- a political donation statement has been made; and
- there are less than 10 public submissions in the nature of objection

Council has not objected to the proposed modification subject to the condition of approval being satisfied; a political disclosure statement has not been made; and the Department received two public submissions in the form of objections.

Accordingly, the application is able to be determined by the Director, Metropolitan and Regional Projects South, under delegation.

4. CONSULTATION AND EXHIBITION

Under Section 75X (2) (f) of the Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the Department's website and referred to City of Sydney Council for comment. Due to the nature of the proposed modification, the modification request was not exhibited by any other means. The Department received two public submissions, in the form of objections.

4.1 City of Sydney Council

City of Sydney Council (Council) raised no objection to the proposed modification. Council provided general comments as follows:

- altering the boundary alignment seems minor in nature;
- any signage lighting should not be too bright or flash and should not spill light past the signage;
- with regard to the new café, the internal layout should resemble a café and not another use such as a small bar; and
- on the assumption that Council owns the footpath, the footpath seating cannot be part of the approval. The proponent should lodge a Footway Application with Council for approval for the seating under the Roads Act.

Council recommended that:

- a condition be imposed stating that the use be specifically used as a café, to avoid a later change to another use, such as a bar;
- a condition be imposed restricting the cooking of any food within the café, as no mechanical cooking exhaust has been proposed;
- details of signage for the cafe should be imposed as a condition of consent;
- any outdoor seating should comply with the standards of the Late Night Trading DCP for outdoor areas; and
- the cafe trading hours prior to 8am (being 6.30am to 8.00am) and those hours after 11.00pm, (being to 12 midnight on Monday to Saturday) should only be allowed for a one year trial period to allow the ongoing performance of the cafe use to be monitored.

4.2 Public Submissions

The Department received two public submissions in the form of objections relating to the existing up lighting on the northern façade of the building (as approved under MP09_0011) and the addition of the proposed illumination of the Kinghorn Cancer Centre sign on the northern façade. The Department does not consider the existing up-lighting component of the project as part of the modification application, however the Department requested that the proponent provide comment on this issue.

In response, the proponent advised that the northern façade up-lighting is no longer operational at night and was only in use for the opening of the centre and during a testing phase. The proponent is awaiting anti-glare snoods to be fitted to the lighting which will reduce potential glare as witnessed through the testing phase. The proponent confirmed that the façade lighting will remain off until the snoods are in placed and approval is received from the Department.

5. CONSIDERATION OF PROPOSED MODIFICATIONS

5.1 Boundary realignment

The proposal seeks to modify the boundary alignment by moving the boundary between lots PT8 and PT5 approximately 2.78 metres to the west on level 3-10 and amend the boundary between PT5, PT7 and PT8 to take account of services to the development. The proponent has indicated that the realignment will streamline the boundaries of the site.

Council raised no objection to the proposed boundary alignment, stating that the modification was minor in nature.

The Department is satisfied that the proposed boundary realignment will not produce adverse impacts for the development or the environment.

5.2 Signage

The proposal seeks to modify an existing approved sign by illuminating the 'Kinghorn Cancer Centre' logo on the Kinghorn Cancer Centre northern façade. The signage is to be illuminated at night by two 440 watt spot lights, which will shine from either side of the sign from level 6 below, as shown in **Figure 2**. The signage is to be constructed from steel plate with a matt finish to limit glare.

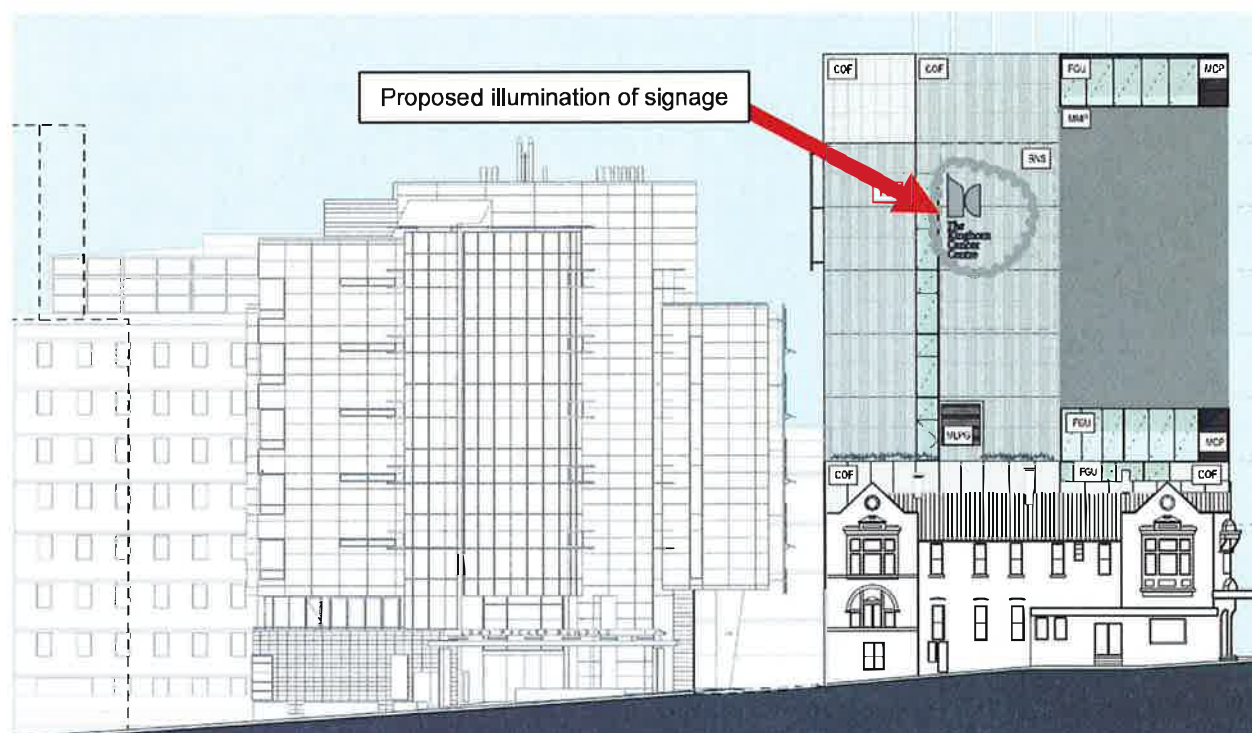


Figure 2: Proposed illumination of the Kinghorn Cancer Centre sign

The proponent submitted a Design Compliance Certification Report which was prepared by Webb Australia Group Pty Ltd. The report clarified that the proposed lighting is in accordance with AS4282-1997 – Control of the obtrusive effects of outdoor lighting and SEPP 64 – Transport corridor outdoor advertising and signage guidelines. The report also highlighted that compliance with the requirements of AS1158 (Security for Healthcare Facility) and AS4485 (Lighting for Roads and Public Spaces) was not required as the proposed lighting is not for security purposes or for a road or public space.

Council indicated that any signage should not be too bright or flash and should not result in light spill beyond the signage. The proponent indicated that a light analysis has been undertaken showing light spillage to be at an acceptable level, particularly as the light is angled away from residential development.

Schedule 1 – 7 Illumination of *State Environmental Planning Policy No. 64 – Advertising and Signage* (SEPP 64) provides assessment criteria for the illumination of signage. **Table 1** below is an assessment of the proposed illumination of signage against the relevant provisions in SEPP 64 – Schedule 1 (7 – Illumination).

Would illumination result in unacceptable glare?
The signage will be constructed from steel plate with matt finish to limit glare.
Would illumination affect safety for pedestrians, vehicle or aircraft?
The sign is located on level 6 of the Kinghorn Cancer Centre, therefore the illumination of the sign will not adversely impact the safety of pedestrians and vehicles. The illumination will not affect aircraft safety.
Would illumination detract from the amenity of any residence or other form of accommodation?
The subject site is surrounded by a number of late night uses and a limited number of residential buildings. Furthermore, the illumination will be orientated to the ground and away from residential buildings which will minimise lighting impacts.
Can the intensity be adjusted, if necessary?
The intensity of the illumination can not be adjusted. However, an adjustment is not considered necessary as the subject site is surrounded by a number of late night uses.
Is the illumination subject to a curfew?
The lighting is proposed to operate throughout the night.

Table 1: SEPP 64 – Schedule 1 Assessment Criteria (7 – Illumination)

On this basis, the Department considers that the proposed signage modification is acceptable given that:

- the signage will be orientated away from residential developments;
- the signage will be constructed from steel plate logo with matt finish to limit glare; and
- the signage is consistent with the objectives of AS4282-1997 and State Environmental Planning Policy No. 64 – Advertising and Signage.

5.3 Use of Ground Floor Tenancy

The subject tenancy is located on the ground level of the Kinghorn Cancer Centre. The original project approval allocated this portion of the site for an undetermined commercial or retail use. The modification application seeks to use this portion of the site as a café. The subject site is surrounded by a number of mixed uses including restaurants, cafes and retail outlets. The allocation of the premises as a café is considered consistent with the surrounding development and uses. The location of the café is shown in **Figure 3** below:

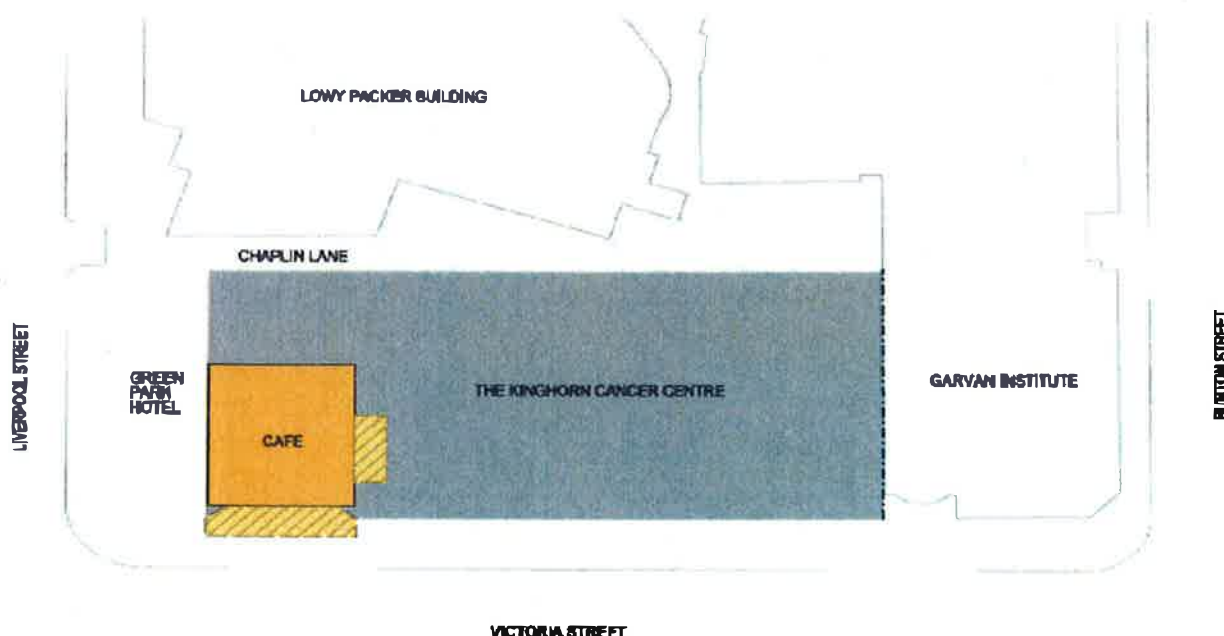


Figure 3: Location of the proposed café within the Kinghorn Cancer Centre

Council have recommended that measures be implemented to ensure the premise is used solely as a café and restrict any changes to this use. The proponent has indicated that the application is for a café, therefore the Department will assess the merits of this application based on this provision.

Council noted that the proposal does not provide for mechanical cooking exhaust, therefore no food should be cooked on site. The proponent indicated that food items sold on site will not be prepared at the premise.

Therefore, the Department is satisfied that the proposed use of the ground floor tenancy is consistent with the original project approval.

5.4 Local amenity

The café's proposed core operating hours consist of 6.30am to 12pm Monday to Saturday and 6.30am to 10pm on Sunday. Under City of Sydney's Late Night Development Control Plan 2007 (DCP), the site is classified as a Category B Premise. **Table 2** below identifies the Category B Premises Trading Hours under the DCP against the proposed trading hours:

CATEGORY B PREMISES – LOCAL CENTRE		PROPOSED TRADING HOURS	
<u>Indoor Trading Hours</u>	<u>Outdoor Trading Hours</u>	<u>Indoor Trading Hours</u>	<u>Outdoor Trading Hours</u>
Base – 8am to 11pm	Base – 10am to 8pm	6.30am – 12pm Monday to Saturday	6.30am – 10pm daily
Extended – 8am to midnight	Extended – 10am to 10pm	6.30am – 10pm Sunday	

Table 2: Comparison between proposed trading hours and recommended trading hours under the City of Sydney's Late Night DCP.

Council recommended that café trading hours prior to 8am (being 6:30am to 8:00am) and those hours after 11:00pm, (being to 12 midnight on Monday to Sunday) should only be allowed for a one year trial period. The Department supports this recommendation and is satisfied that the one year trial period will allow the ongoing monitoring and maintenance of the premise.

The modification also seeks to install folding doors at the tenancy entrance, as shown in **Figure 4**. Council raised concerns over the proposed glass sliding doors for the café and whether the noise generated from opening of the doors will impact on the local amenity. The proponent revealed that many uses along Victoria Street operate with their doors open to allow for street activation. The proponent has also acknowledged that doors are not to remain open after 10pm Monday to Sunday. The café will not generate unacceptable acoustic impacts on the locality, particularly when viewed in context with the surrounding late night trading establishments.

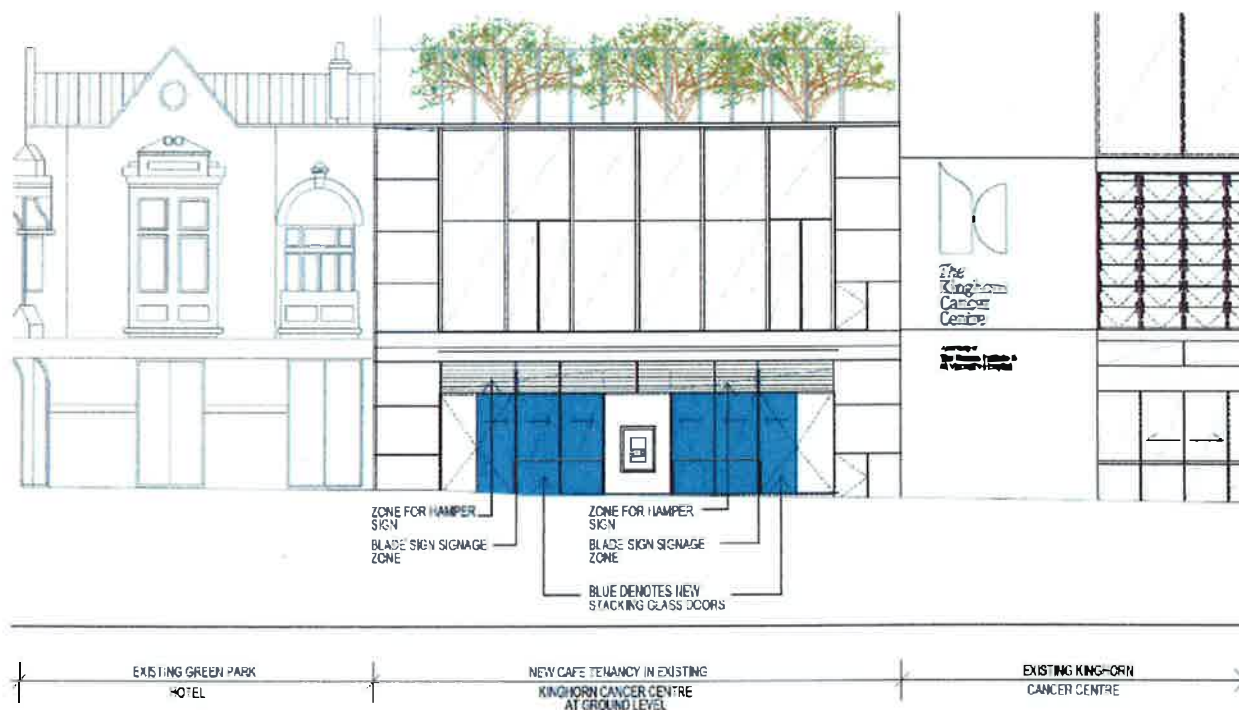


Figure 4: Victoria Street Elevation of proposed cafe

On this basis, the Department considers that the proposed modification will not produce adverse impacts on amenity given that:

- the premise is located in close proximity to other late night uses;
- extended trading hours are subject to a 1 year trial period to allow for ongoing monitoring; and
- the opening and closing of doors is consistent with the objectives of City of Sydney's Late Night Development Control Plan.

6. CONCLUSION AND RECOMMENDATION

The Department has assessed the application on its merits and the proposed modification is considered to be reasonable and will not result in any significant changes to the development as approved.

The Department is satisfied that the alteration to the boundary alignment; modification to the northern façade signage; and allocation of the ground floor tenancy of the Kinghorn Cancer Centre as a cafe will not adversely impact on the environment or local amenity.

The modified proposal remains consistent with the overall original design intent and terms of approval and is considered to be acceptable. It is therefore recommended that the application be approved, subject to the modified conditions.

It is recommended that the Director, Metropolitan & Regional Projects South, as delegate for the Minister for Planning and Infrastructure:

- (a) **consider** the findings and recommendations of this report; and
- (b) **approve** the modifications under delegated authority, under section 75W of the Environmental Planning and Assessment Act, 1979; and
- (c) **sign** the attached Instrument of Modification Approval for MP09_011 (MOD 1).

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Metropolitan & Regional Projects South

Endorsed by



16.11.12.

Mark Brown
A/Team Leader
Metropolitan & Regional Projects South

APPENDIX A MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5534

APPENDIX B SUBMISSIONS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5534

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5534