



**Planning &
Infrastructure**

MODIFICATION REQUEST:
**Mixed Use Retail, Commercial and Residential
Building, Block 2, Central Park**

MP 09_0078 MOD 6

Modification to Conditions of Approval

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

May 2013

© Crown copyright 2013
Published May 2013
NSW Department of Planning & Infrastructure
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.

TABLE OF CONTENTS

1.	BACKGROUND	1
1.1	Site Description	1
1.2	Previous Approvals	1
2.	PROPOSED MODIFICATION	2
3.	STATUTORY CONTEXT	3
3.1	Continuing Operation of Part 3A to Modify Approvals	3
3.2	Modification of a Minister's Approval	3
3.3	Environmental Assessment Requirements	3
3.4	Delegated Authority	3
4.	CONSULTATION AND SUBMISSIONS	4
5.	ASSESSMENT	5
6.	CONCLUSION	11
7.	RECOMMENDATIONS	12
APPENDIX A	MODIFICATION REQUEST	13
APPENDIX B	SUBMISSIONS	14
APPENDIX C	RECOMMENDED MODIFYING INSTRUMENT	15

1. BACKGROUND

The purpose of this report is to assess a request to modify the approved Project Application (MP 09_0078) for the construction of a mixed use retail, commercial and residential building on Block 2, Central Park pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ('the Act'). The application seeks to amend a number of conditions of the approval to ensure consistency with subsequent amendments to the approved Concept Plan, other Project Applications and other necessary applications requiring approval from other authorities.

1.1 Site Description

The subject site, 26 Broadway, Chippendale, is the former Carlton and United Breweries site, located at the south-western end of the Sydney Central Business District. Block 2, known as 'One Central Park' is located in the northern part of the Central Park site. Block 2 has frontages to Broadway to the north, Blocks 5A and 5B to the south, and Carlton Street (previously referred to as Kent Road) to the east (**Figure 1**).

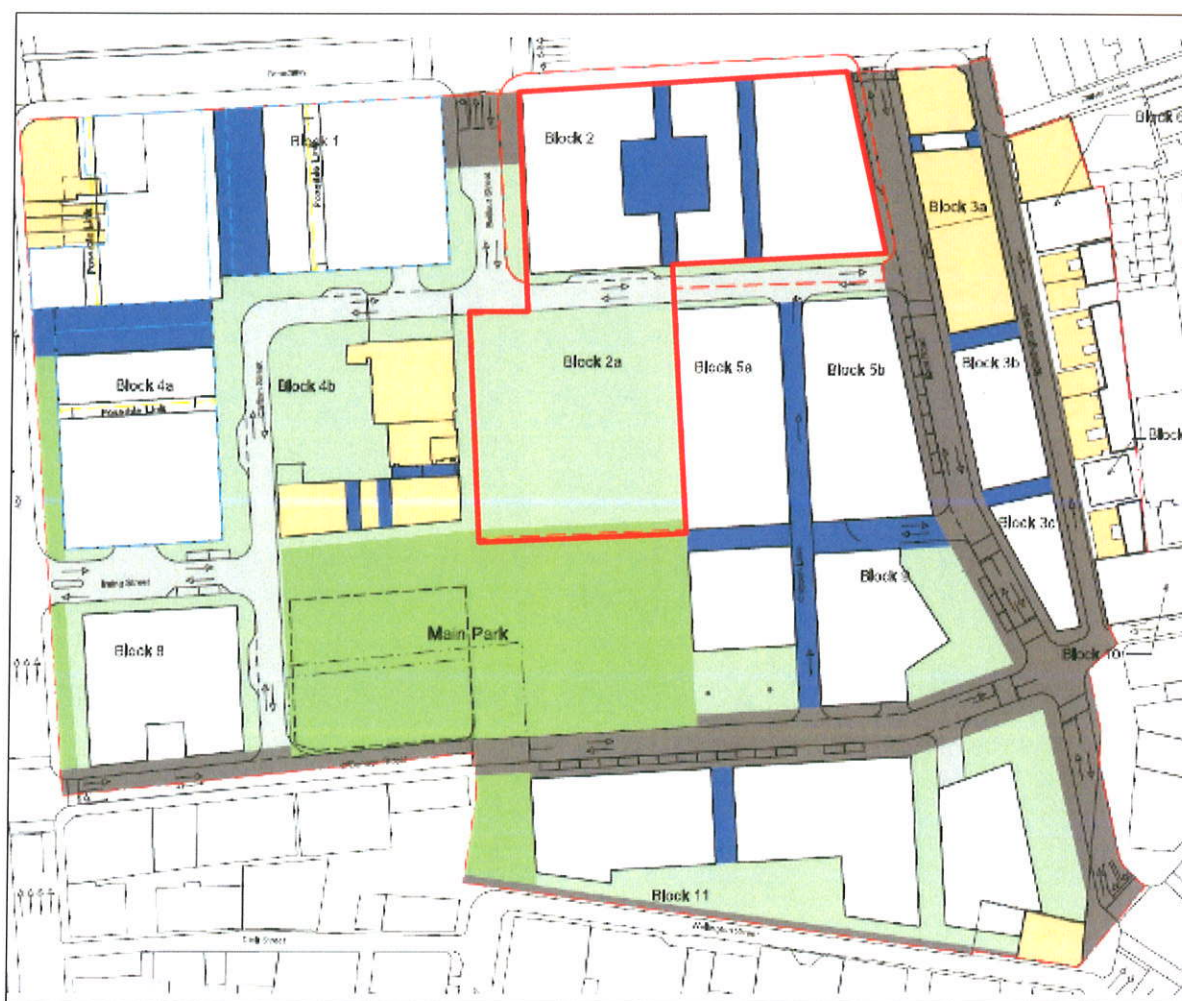


Figure 1: Block 2 (outlined in red)

1.2 Previous Approvals

On 9 February 2007, the then Minister for Planning approved a Concept Plan (MP 06_0171) for redevelopment of the site for a mix of residential, commercial, retail uses and public open space. The Concept Plan was subsequently amended on 18 July 2007, 5 February 2009, 16 May 2010, 30 August 2011, 24 July 2012, 31 July 2012 and 17 January 2013.

On 18 June 2010, the Planning Assessment Commission (PAC) granted approval to a Project Application (MP 09_0078) for a mixed use residential (593 units), retail, commercial development on Block 2 consisting of two towers (east tower measuring 133m above AHD and the west tower measuring 79.5 metres AHD), located above a podium.

The Project Approval has been modified as follows:

- On 25 March 2011, **MOD 1** was approved by the then Executive Director of Major Projects Assessment to increase the number of residential dwellings to 623, delete the approved commercial floor space and to add a gymnasium.
- On 17 October 2011, **MOD 2** was approved by the then Acting Director-General to modify a number of approval conditions to enable staged Construction Certificates to be submitted.
- On 22 December 2011, **MOD 3** was approved by the then Deputy Director-General of Development Assessment and Systems Performance for changes to the internal layout of the residential towers and podium level, deletion of the approved landscaped terraces, modifications to the approved heliostat system, modifications to façade vertical and horizontal landscaping and public domain works.
- On 31 July 2012, **MOD 4** was approved by the then Deputy Director-General of Development Assessment and Systems Performance approved modifications to Energy Rating Conditions.
- On 19 September 2012, **MOD 5** was approved by the then Deputy Director-General of Development Assessment and Systems Performance to modify the Hours of Works and associated Statement of Commitments.

A number of other approvals have been granted on the site, with the redevelopment of the 'Central Park' site currently undergoing works to facilitate the mixed use development and public open space envisaged under the Concept Plan.

2. PROPOSED MODIFICATION

The Proponent seeks to modify a number of conditions of the approval to ensure consistency with subsequent amendments to the approved Concept Plan, other Project Applications on the site and other necessary applications requiring approval from other authorities. Specifically, it is proposed to modify the following conditions:

- Condition A2 – Development in Accordance with Plans and Documentation;
- Condition B4 – Public Art;
- Condition E2 – Restrictions of Use of car and Storage Spaces;
- Condition E4 – Access;
- Condition E8 – Public Accessible Land;
- Condition E12 – Building / Strata Management Settlement;
- Condition F1 – Vertical Green Wall and Landscaping; and
- Condition F13 – Public Accessible Areas Management Plan.

The Proponent has also sought to delete condition:

- Condition E1 – Amendments to Subdivision Plans; and
- Condition E13 – Positive Covenant for the Recycled Water Treatment Plant.

Further details of the proposed modifications are provided in **Appendix A**.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 75W of the EP&A 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 of the carrying out of the project under Section 75W of the EP&A Act.

3.2 Modification of a Minister's Approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the EP&A Act. Section 75W provides for the modification of a Minister's approval including "revoking or varying a condition of the approval or imposing an additional condition of the 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 modify or delete specific conditions of the approval and therefore approval is required.

3.3 Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the Director-General may notify the Proponent of Director-General's 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 DGRs 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 Delegated Authority

The Minister has delegated his functions to determine Section 75W modification requests to the Executive Director, Development Assessment Systems and Approvals, where:

- the relevant local council has not made an objection; and
- a political disclosure statement has been made, but only in respect of a previous related application; and
- there are less than 10 public submissions in the nature of objections.

The Department received five public submissions and City of Sydney Council has not objected to the proposal but has requested an amendment to the proposed modification to Condition F1. This request is discussed in **Section 5** of this report. There has been a political donation disclosure made for this application stating that no political donations have been made within the past 2 years, however a political donation was disclosed with a previous application on the site.

Accordingly, the application is able to be determined by the Executive Director, Development Assessment Systems and Approvals, under delegation.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X of the EP&A Act and clause 8G of the EP&A Regulation, the Director-General is required to make the modification request publicly available. The modification request was made available on the Department's website on 13 February 2013 and referred to City of Sydney Council and the Independent Pricing and Regulatory Tribunal (IPART) for comment. Due to the nature of the proposed modification, the modification request was not exhibited by any other means.

City of Sydney Council

The City of Sydney Council raised no concerns with the majority of the proposed modifications. Concern was however raised in relation to the proposed modification to Condition F1. Council requested that the Management Plan for the maintenance, repair and replanting of the vertical green wall be submitted to and approved by Council rather than the Director-General. Council considers that Council staff have the necessary technical skills and knowledge to determine the adequacy of any proposed management plan to ensure the proper management and maintenance of the green wall.

The Department has provided detailed consideration of the concerns raised by Council and responses by the Proponent in **Section 5** of this report.

Independent Pricing and Regulatory Tribunal (IPART)

IPART raised no concerns with the proposed modifications to Condition E12 and E13, which relate to the recycled water treatment plant.

Public Submissions

The Department received five submissions from the public (including a submission from the Chippendale Residents Interest Group) objecting to the proposed modifications and in particular to the proposed modification of Condition B4 relating to the provision of public art within the site. Other concerns that were raised include:

- exhibition and notification process for modifications to projects on the site;
- description of modifications affecting other projects;
- allocation of car parking spaces;
- use of car and storage spaces within the basement car parking area; and
- wording of modifications to conditions for the Green Wall and building / strata management.

As stated above, the Department formed the view not to publicly exhibit this application given the minor nature of the application and the low likelihood of impacts to occur on neighbouring properties. However, the application was made available on the Department's website and the Department has carefully considered the issues raised in submissions. In response to the concerns raised in the public submissions, the Department notes that each application received (whether it is a modification or project application) is considered on its merits and the potential impacts upon the neighbouring community that could occur.

The other issues raised in the public submissions are considered in **Section 5** of this report.

Proponent Response to Submissions

On 22 March 2013, the Proponent submitted a response to Council's comments and provided a copy of the draft 2009 Public Art Strategy that has formed the basis for discussions between Council and the Proponent as required by Condition B4.

On 16 April 2013, the Proponent provided a further response to submissions addressing issues raised with the Public Art Strategy, car parking allocation and subdivision requirements.

5. ASSESSMENT

The Department's consideration of the modifications to the approval is provided below:

Modification to Condition A2

The Proponent seeks to modify Condition A2 to be consistent with the subdivision plans (changing from 2 December 2011 to 7 December 2012) currently with Council for approval and also with the Land and Property Information (LPI) for a pre-registration review.

Condition A2 is to be modified as follows:

A2 Development in Accordance with Plans and Documentation

~~Subdivision Plans prepared for the Section 75W Application by Denny Linker & co., dated 2 December 2011 (Issue 32)~~

Subdivision Plans prepared for the Section 75W Application by Denny Linker & co., dated 7 December 2012

The proposed amendment to the subdivision plans follows modification to allotment numbers and location of allotments within the site. The Department does not raise any concerns with the modification as this will ensure that the subdivision plans are consistent with those submitted to Council and the LPI.

It is noted that the modified subdivision plans (only the basement component) were also submitted with and approved as part of the modification application to the basement (MP 09_0042 MOD 3), which was approved on 9 April 2013.

Modification to Condition B4

The Proponent seeks to modify Condition B4 to reflect the public art elements within Block 2 in accordance with a Public Art Strategy endorsed by Council. In addition, the Proponent requests that all public art works be completed by the time the last Occupation Certificate (OC) is issued on Block 2 rather than the issue of an OC (which could technically be the first OC for Block 2).

Condition B4 is to be modified as follows:

B4 Public Art

High quality art work must be provided within the development in publicly accessible locations ***established within the approved Public Art Strategy document (as amended). including near main entrances, lobbies, and on street frontages, in accordance with the Central Sydney DCP 1996 and the Public Art Policy.*** Consultation must be undertaken with Council and details of the art work must be submitted to and approved by Council prior to the relevant Construction Certificate being issued.

All public art is to be provided, installed and completed prior to the issue of ***an Occupation Certificate the last occupation certificate for any part of the building on Block 2.***

The proposed amendment to the condition follows discussions with Council for the provision of public art within the site. A Public Art Strategy (draft version provided for information) for the Central Park site continues to be discussed between the Proponent and Council as required by the original approval. Concerns with details within the Public Art Strategy are matters for the Proponent and Council to discuss, as Council is the relevant authority that approves the Public Art Strategy. Public comment into the Public Art Strategy is limited, however this is a matter for interested residents to discuss with Council and the Proponent to ensure outcomes will benefit the development of the site and those of nearby residents.

Council has raised no concerns with the modification to the timing of when the public art is to be provided on the basis that the modification does not affect the intent of providing public art and enhancing the public domain.

The Department has recently approved a modification to MP 11_0090 (MOD 1) for the construction of three blocks (Blocks 3B, 3C and 10) where the following Public Art condition was modified:

High quality art work must be provided within the development in publicly accessible locations, ~~including near main entrances, in lobbies and on street frontages,~~ in accordance with ~~the Central Sydney DCP 1996 and~~ the Public Art Policy, **as approved by Council**. Details of the art work must be submitted to and approved by Council prior to an Occupation Certificate for above ground works being issued. All public art work is to be provided, installed and completed prior to issue of an Occupation Certificate.

In order that a consistent approach is applied to the instruments across the site, the Department considers it appropriate to modify Condition B4 to be similar to that approved under MP 11_0090 MOD 1, as follows:

High quality art work must be provided within the development in publicly accessible locations, ~~including near main entrances, lobbies, and on street frontages,~~ in accordance with ~~the Central Sydney DCP 1996 and~~ the Public Art Policy, **as approved by Council**. Consultation must be undertaken with Council and details of the art work must be submitted to and approved by Council prior to the relevant Construction Certificate being issued.

All public art is to be provided, installed and completed prior to the issue of **an Occupation Certificate the last occupation certificate for any part of the building on Block 2**.

Noting the comments above and that the Proponent continues to liaise with Council throughout the preparation and implementation of the Public Art Strategy, the Department raises no concerns with the proposed modifications, subject to modifying the condition to be consistent with that approved under MP 11_0090 (MOD 1).

Deletion of Condition E1

The Proponent seeks to delete Condition E1 as the lot references in the condition relate to a stratum plan dated 23 February 2010 which has now been superseded and the lot references are now out of date. In addition, the Recycle Water Treatment Plant (previously known as the Blackwater Treatment Plant) (RWTP) is to remain on a separate title to ensure efficiencies with regulatory compliance with *Water Industry Competition Act (2006)* (WICA).

Condition E1 currently states:

E1 Amendments to Subdivisions Plan
Lot 310 is to be consolidated with Lot 305

The Department notes that Lot 310 referred to in the condition relates to the allotment allocated to the RWTP under the original approval, while Lot 305 was the "residue" lot. The Department reviewed prior modifications to the approval and notes that the allotment numbers have been amended and therefore Lot 310 does not relate to the RWTP.

The original intent of the condition was to ensure that the RWTP was incorporated within the residue allotment as the Department was concerned that the RWTP may have been separately sold and therefore may not be constructed. Notwithstanding this, to ensure that no issues arise

with compliance with the WICA for the RWTP (as noted in the comments received to the proposed modifications to Condition E12 and E13), the Department is satisfied with deletion of the condition and the RWTP should be provided within its own allotment.

Modification to Condition E2

The Proponent seeks to modify Condition E2 to

- delete references to Lot 306 in part (b) as recreation facilities parking is now part of Lot 302;
- modify references in part (c) to Lot 306 ("Car Parking Stratum") rather than Lot 313; and
- modify part (c) to amend changes as approved within MP 09_0042 (MOD 3).

Condition E2 is to be modified as follows:

E2 Restriction on Use of car and Storage Spaces

The following conditions apply to car parking and storage where those spaces affect Strata Lots:

- (a) The on-site car parking and storage spaces within lots 301, 302, 303, 308, 310, 311 and 312 are not to be used other than by ~~a resident or an~~ owner **or occupant** of the subject lots.
- (b) The on-site car parking spaces within lot 305, ~~306~~ & 309 are not to be used other than by an ~~occupant, tenant or~~ owner **or occupant** of the subject lot.
- (c) The on-site car parking and storage spaces within ~~313 306 are not to be used other than by a resident or owner of~~ **are to be used by tenants, residents, owners and occupiers of** Blocks 3, 6, 7 and 10. **On-site car parking spaces can also be used by owners or occupiers of lots 310, 311 and 312.**
- (d) The Proponent is to include restrictions on use, created pursuant to section 88B of the Conveyancing Act 1919, to Council's satisfaction addressing Conditions E2 (a) to (c) in either:
 - 1) the initial deposited plan subdividing the site; or
 - 2) the appropriate strata plan/s subdividing a lot created by the plan referred to in 1).

The proposed modifications to part (a) and (b) are considered suitable to clarify who can utilise the car parking and storage areas within the associated allotments. The Proponent has confirmed that the parking is restricted to the owner or occupant of the lots and not for visiting patrons as suggested in public submissions.

The deletion of lot 306 within part (b) is supported on the basis that the car parking allocation for the recreational facilities within the development is now provided within lot 302.

The proposed allocation of car parking referred to in part (c) are to align the condition with the current stratum allotment numbering and to include references to additional Blocks following the amendment to the basement car parking allocation as approved by MP 09_0042 MOD 3 on 9 April 2013.

Modification to Condition E4

The Proponent seeks to modify Condition E4 to remove the requirement to provide "public access" as this is already addressed in existing Condition E8.

Condition E4 is to be modified as follows:

E4 Access

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for ~~public access and~~ access to lifts, lobbies, fire stairs, **and** service areas, loading areas and car parking areas, and created pursuant to Section 88B of the Conveyancing Act 1919.

The Department considers that the proposed modification is acceptable as Condition E8 relates to the provision of publicly accessible land to the development and therefore the modification to Condition E4 to delete the public access reference in the condition is appropriate to avoid inconsistency between conditions.

Modification to Condition E8

The Proponent seeks to modify Condition E8 as follows:

E8 Publicly Accessible Land

Rights of way, easements and positive covenants must be created over the publicly accessible land shown on the Public Domain Plan for the site to provide and maintain public access, pursuant to Section 88B of the Conveyancing Act 1919 **at times as agreed with Council and the Department.**

Note: highlighted section is Departmental edit to recommended wording

The Department notes that Council does not raise any concerns with the proposed amended wording to the condition. The Department recommends that agreements are also reached with the Department at the same time as Council to ensure that access to and through the site is maximised.

Modification to Condition E12

The Proponent seeks to modify Condition E12 by:

- deleting part (a) as the management of the RWTP will be subject to the WICA licensing regime and Independent Pricing and Regulatory Tribunal (IPART) oversight and any 'step in rights' will be addressed through the regulatory regime and otherwise supplemented by private agreements; and
- deleting part (c) as the Central Thermal Plant (CTP) is not located on the land the subject of this approval and although it may provide services to Block 2, it may be that the BMS/SMS (Building/Strata Management Statement) will not address the CTP but rather the services will be covered by private contractual arrangements.

Condition E12 is to be modified as follows:

E12 Building/Strata Management Statement

Prior to the issue of a Subdivision Certificate, a Building/Strata Management Statement must be prepared which adequately details the following matters to the satisfaction of the Department ~~and Council~~:

- ~~a) The use, operation, management and arrangements for the supply of services, 'step-in' agreement, maintenance and upgrading for the Recycled Water Plant within proposed Lot 307 and associated plant, equipment and pipes;~~
- ba) The use, operation, management, maintenance and upgrading for the Stormwater Detention Tank within proposed Lot 311 and associated pipes and equipment;*
- ~~cb) The use and arrangements for the supply of services for the Central Thermal Plant within 'Superlot 2' and associated plant, equipment and pipes;~~
- db) The use, management, maintenance and upgrading for the privately owned and publically accessible areas within the subdivision; and*

- ec)** *The ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot within the subdivision.*

The Department referred the proposed modification to delete part (a) to IPART for comment. IPART advised that the RWTP will be covered by a network operators licence under the WICA. The WICA licence requires the plant to be maintained and operated by the licence holder. WICA also provides provisions for a supplier of last resort in the case of the failure of the network operator. The plant and associated infrastructure will be regulated, which includes auditing, by IPART. On this basis, the Department does not raise any concerns with the deletion of this component of the condition as the WICA licence overrides the condition.

In relation to the proposed deletion of part (c), the Department does not raise any concerns with the deletion of this component of the condition as it is considered that the BMS/SMS should only relate to uses within the approved building envelope. Expressions of interest for the future management of the CTP are currently being sought prior to the commissioning of the plant in late 2013.

Deletion of Condition E13

The Proponent seeks to delete Condition E13 on the basis that the condition is no longer necessary and should be deleted in its entirety as it is overseen by IPART as part of the License Agreement that is in place. The Proponent also advises that under changes to the WICA, the Council no longer has any role for these types of facilities under section 68 of the *Local Government Act*. The regulator is IPART and the Minister administering the WICA, as such, this condition is considered to be redundant and would result in a third regulator of this activity.

Condition E13 currently requires:

E13 Positive Covenant for the Recycled Water Plant

~~A public positive covenant must be created on the subdivision, burdening proposed Lot 307 (the Recycled Water Plant) in favour of Council, requiring that the owner of the lot maintains in good functioning order, and upgrades and replaces when necessary, the Recycled Water Plant and associated plant, equipment and pipes to ensure that the Plant functions appropriately for its intended purpose. The covenant is to also include the provision for Council to inspect the Lot. The covenant must be created pursuant to Section 88B of the Conveyancing Act 1919, to Council's satisfaction.~~

The Department referred the proposed modification to the condition to Council and to IPART. Council noted that it will no longer be the regulatory authority under Section 68 of the *Local Government Act*, and therefore no concerns are raised with the deletion of the condition. IPART advised that IPART and the Minister administering the WICA will be responsible for the approval of the infrastructure, commencement of operations and ongoing auditing of the operations of the plant. On this basis, the requirements for a Positive Covenant to be provided for the recycled water plant is no longer required and the Department does not raise any concerns with the deletion of the condition.

Modification to Condition F1

The Proponent seeks to modify Condition F1 so that the positive covenant relates to Lots 301-303 and 305 as these are the lots over which the green walls and associated landscaping will be constructed. The modification provides that prior to the issue of the Occupation Certificate of Lot 302 (being the east tower residence allotment) or as otherwise agreed with Council that a positive covenant will be registered.

Condition F1 is to be modified as follows:

F1 Vertical Green Wall and Landscaping

~~Prior to the issue of an Occupation Certificate, the owner must procure the registration of a positive covenant on the title of the land benefiting a public authority requiring the vertical green walls and landscaping be maintained, repaired and replanted where necessary in accordance with the maintenance schedule approved in Condition B17 of this approval. Prior to the issue of an Occupation Certificate, a Building Management Statement or Strata Management Statement must be provided in registrable form to the Director General for approval which requires the ongoing maintenance of all plantings, both horizontal and vertical and which maintenance is to be the responsibility of the relevant owners of the land. on the relevant titles prior to the issue of the Occupation Certificate of Lot 302 or as otherwise agreed with Council benefiting a public authority requiring the vertical green walls and landscaping be maintained, repaired and replanted where necessary in accordance with any management plan or like document approved by the Director-General, in consultation with Council.~~

Note: highlighted section is Departmental edit to delete doubling of wording and inclusion of additional wording based on the Department's assessment of the modification

Condition B17 (of the original approval) required design details of the vertical garden / vegetal walls and modular planting systems be submitted to, and approved by the Director-General. During the assessment of MOD 3, the Department considered the material submitted to address condition B17 and noted that the Proponent satisfactorily addressed the required issues relating to the planter details, planting types and layouts, drainage and landscape maintenance, as required by the condition.

The Proponent requested that part (g) of Condition B17, requiring the preparation of a Building Management Statement or Strata Management Statement, prior to the issue of the Construction Certificate be relocated to Part F of the approval. This was to enable the statement to be prepared prior to the issue of an Occupation Certificate. The Department considered that this was a more appropriate approach as it would allow for the building management committee to be involved in the preparation of the statement.

The original Condition B17 was subsequently deleted and existing Condition F1 was amended to require the preparation of a Building Management Statement or Strata Management Statement prior to the issue of an Occupation Certificate.

In terms of Council's request that the Management Plan be submitted to Council rather than the Director-General, the Proponent has requested that the condition be modified as proposed and that Council not be involved in the consideration of any management plan as their will be sufficient controls within the positive covenant and Strata Management Statement.

Similar to other approvals on the site, the Department has consistently required that this information be submitted to the Director-General for approval and therefore does not consider it appropriate to amend the condition as requested by Council. Notwithstanding, the Department will consult with Council as part of the approval process.

Modification to Condition F13

The Proponent seeks to modify Condition F13 to ensure consistency with Condition E8 (as amended) and to reflect the terms of the Owner's Consent Deed. Condition F13 is to be modified as follows:

F13 Publicly Accessible Areas Management Plan

~~A Management Plan for public accessible areas must be prepared in consultation with Council officers, in accordance with the Second Deed of Variation of Owner's Approval Deed dated 26 June 2009. The Management Plan must be prepared, publicly exhibited and approved by the Council prior to the issue of an Occupation Certificate, or the use commencing, whichever is the earlier.~~

~~The Management Plan shall include opportunities for use of the Lower Courtyard for markets and community events.~~

*Any Management Plan for public accessible areas may be prepared in stages to accord with the creation of any rights of way, easements and positive covenants as referred to in condition E8 for the relevant publicly accessible areas and must be prepared in consultation with Council officers **and its requirements**, in accordance with the Second Deed of Variation of Owner's Consent Deed dated 26 June 2009.*

Note: highlighted section is Departmental edit to Proponent's recommended wording

The proposed modification to the condition is considered to be appropriate as it would ensure that the requirements of modified Condition E8 are reinforced. The amended condition also maintains consultation with Council during the preparation of the management plans in accordance with the Second Deed of Variation of Owner's Consent Deed, dated 26 June 2009, and therefore the Department does not raise any concerns with the modified condition.

6. CONCLUSION

The Department is satisfied that the modification request complies with the aims and objectives of the approved Project Application (as modified) and does not result in any significant changes to the approved development. The modifications are minor in nature and were generally supported by Council. Issues raised by Council have been satisfactorily addressed by the Proponent and the modification is therefore considered acceptable.

Having regard to the above, the Department is satisfied that the proposed modifications are acceptable, subject to the recommended conditions.

7. RECOMMENDATIONS

It is recommended that the Executive Director of Development Assessment Systems and Approvals, as delegate for the Minister for Planning and Infrastructure:

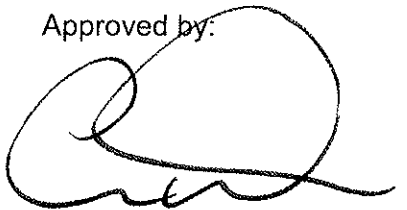
- **consider** the findings and recommendations of this report;
- **approve** the modification request, subject to conditions; and
- **sign** the attached modifying instrument (**Tag A**).

Prepared by: Mark Brown
Senior Planner, Metropolitan & Regional Projects South

Endorsed by:


Karen Jones 29/4/13
Director
Metropolitan & Regional Projects South

Approved by:


Chris Wilson 8.5.13
Executive Director
Development Assessment Systems and Approvals

APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5830

APPENDIX B SUBMISSIONS

See the Department's website at
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5830

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
