



MODIFICATION REQUEST:

Lot 2 DP 748682

132-138 Killeaton Street, St Ives

**MP10_0057 MOD 6 – Modification to add
Pergolas to Blocks A, B & D**

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

May 2012

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1. BACKGROUND

1.1 The Site

The site is located at Lot 2 DP 748682, 132-138 Killeaton Street, St Ives, situated on the southern side of Killeaton Street between Mona Vale and Yarrabung Roads in the Ku-ring-gai Local Government Area.

The site is L-shaped and has an area of 2.297 hectares that falls approximately 3 metres from the northern (Killeaton Street) boundary to the southern (rear) boundary. The site formerly accommodated a complex which comprised a monastery, college and chapel. The site has been largely cleared, with only the monastery, a two storey brick building, and a small stable remaining (refer to **Figure 1** below).

Killeaton Street is a two-lane local road with parking either side and forms a T-Junction with Mona Vale Road approximately 120 metres to the west.



Figure 1: Site Locality

1.2 Previous Approvals

On 2 May 2011, the Planning Assessment Commission (PAC) approved a Project Application (MP10_0057) for the construction of a residential development including demolition and excavation; construction of 6 residential buildings of 4-6 storeys in height comprising 298 apartments; adaptive reuse of the monastery building for communal facilities including pool and gymnasium; basement parking; and landscaping works, subject to conditions of consent.

On 6 August 2011, the Director-General approved amended plans to satisfy Condition B1A of the approval. The plans (including an additional basement car parking level) provided car parking numbers in accordance with the requirements for visitor and residential parking in the *Ku-ring-gai Development Control Plan (Town Centres) 2010*.

1.3 Previous Modifications

On 17 October 2011, the Acting Director General approved a Modification Application (MP10_0057 MOD 1) which involved the use of the existing driveway along the eastern boundary during construction.

On 2 December 2011, the Deputy Director General approved a Modification Application (MP10_0057 MOD 2) for an amendment to Condition C34 and C35 to allow for the installation of a pumping system to discharge water from the basement post construction.

On 1 December 2011, the PAC refused a Modification Application (MP10_0057 MOD 3) for an amendment to Condition B12 to allow a reduction in the number of visitor car parking spaces.

On 20 February 2012, the PAC approved a Modification Application (MP10_0057 MOD 4) for amendments to building RLs, additional pergola structures and changes to rooftop areas.

On 29 February 2012, the PAC approved a Modification Application (MP10_0057 MOD 5) which included modifications to the monastery building including the layout of the ground floor to provide all of the communal facilities and two residential apartments on the first floor.

2. PROPOSED MODIFICATION

The modification application proposes to add pergolas to the following units:

- Block A: Units – 441, 442, 447, 448, 449, 450
- Block B: Units – 458, 563, 564, 565, 566
- Block D: Units – 436

In response to Council's submission, the proponent amended the application so that the proposed pergola structures would be setback 1.5m-2m from the approved building line as shown in **Figure 2**, **Figure 3** and **Figure 4**.

Killeaton Street

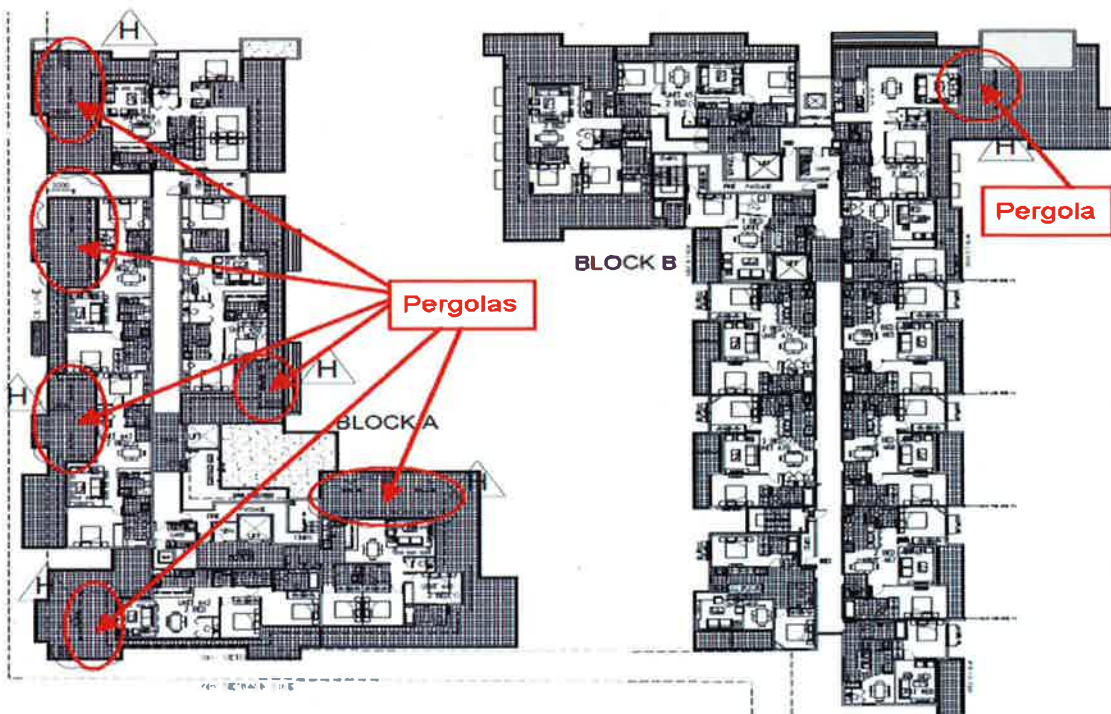


Figure 2: Proposed pergolas for Level 4, Blocks A & B (Stage 2 – Level 4 Plan)

Killeaton Street

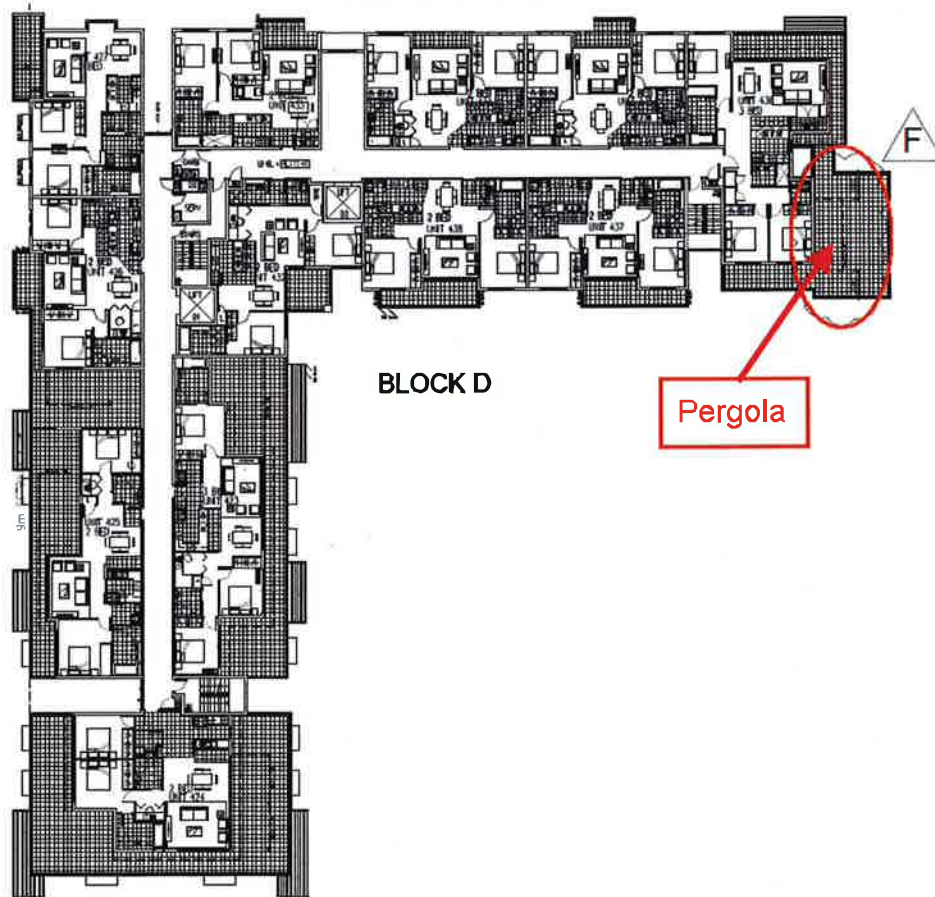


Figure 3: Proposed pergolas for Level 4, Block D (Stage 1 – Level 4 Plan)

Killeaton Street

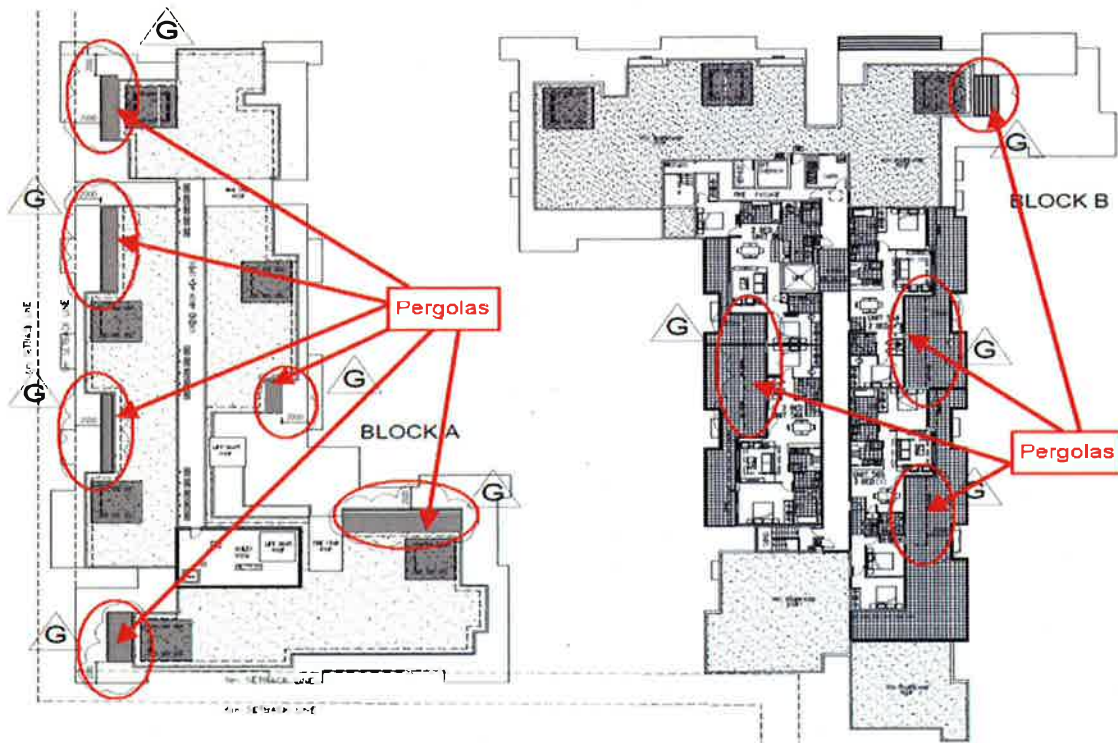


Figure 4: Proposed pergolas for Level 5, Block A & B (Stage 2, Level 5 Plan)

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with Clause 3 of Schedule 6A of the EP&A 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 building form as originally approved and therefore, approval to modify the application 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 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 sufficient information was provided to the department to consider the application.

3.4 Delegated Authority

On 14 September 2011, the Minister for Planning and Infrastructure delegated his powers and functions under Section 75W of the Act to the Deputy Director General 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.

There have been no submissions received from the public and the issues Council originally raised have been resolved. However, a political disclosure statement has been made for a previously related application.

Accordingly the application is able to be determined by the Deputy Director General under delegation.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X (2) (f) of the EP&A 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 Ku-ring-gai Council for comment.

No public submissions were received on the modification request.

4.1 Ku-ring-gai Council

Ku-ring-gai Council reviewed the proposal and made the following comments:

- Ku-ring-gai Local Environmental Plan No. 194 requires the top storey to be 60% of the floor below. Therefore, the top storey and associated ancillary structures are to be setback from the external edge of the building to recess the top storey and reduce the massing of the building at the uppermost level;
- pergola structures to the edge of the buildings are not supported as recessing of the top storey loses its design intent. It is recommended that pergola structures be setback, preferably 1.5m-2m where possible; and
- pergola structures must be of light weight material finish and open style to ensure the bulk, scale and design of the top storey remains relatively unchanged.

4.2 Proponent's Response to Submissions

In response to Council's concerns, the proponent provided the following response:

- all pergola structures will be setback a minimum of 2 metres from the approved building line as shown in the amended plans.

5. ASSESSMENT

The department considers the key issues for the proposed modifications are:

- visual amenity; and
- overshadowing.

5.1 Visual impacts

Ku-ring-gai Council (Council) did not support pergola structures being constructed to the edge of the building line as recessing of the top storey loses the building's design intent. Council advised that the top storey and associated ancillary structures such as pergolas be setback from the external edge of the building to recess the top storey and reduce the massing of the building at the uppermost level. Council recommended that pergola structures be setback, preferably 1.5m-2m.

The proponent responded to the Council's submission by submitting amended plans which shows all proposed pergolas being setback a minimum of 2 metres from the approved building line. The proponent has also acknowledged that the pergolas will be constructed of lightweight materials that will allow for visual transparency.

A small portion of the proposed pergolas will be visible from the development's primary frontage, Killeaton Street. However, the proposed modifications are not considered to significantly alter or detract from the appearance of the development. Taking into account the context and large scale of the development, the addition of pergolas to the uppermost levels will not adversely impact on the streetscape or visual amenity.

A number of the proposed pergolas will be visible from adjoining properties on the western boundary of the site. However, the pergolas are relatively small in comparison to the overall development and will be setback 2 metres from the approved building line. Therefore, it is considered that proposed modification will not affect the visual amenity of adjoining properties.

The proponent has indicated that the proposed pergolas will be the same as those approved in a previous approval (MP10_0057 MOD 4). Therefore, the pergolas are considered to be consistent with the approved ceiling heights, will match the approved colours and materials of the development, and are in keeping with the scale of the overall development.

The Department is satisfied that the amended modification proposal will not have any adverse visual impacts when viewed from the public domain or adjoining properties.

5.2 Overshadowing

The proposed pergolas are relatively small in scale and will cover a small portion of the uppermost levels of the buildings. The pergolas will not overshadow adjoining properties and will not impact on the public domain.

The Department is satisfied that the proposal will not contribute to overshadowing or any loss of privacy and outlook.

6. CONCLUSION AND RECOMMENDATIONS


The proposal seeks to amend the original approval by adding pergolas to Blocks A, B and D. The proposed modifications are considered to be minor and do not result in significant changes to the overall development. The proposal achieves the same objectives as assessed for the originally approved development under MP 10_0057 and does not alter the overall nature, need or justification of the approved project.

It is recommended that the Deputy Director General:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request under delegated authority, subject to conditions; and
- (c) **sign** the attached Instrument of Modification for MP10_0057 MOD 6.

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14.5.12

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APPENDIX A MODIFICATION REQUEST

See the department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5257

APPENDIX B SUBMISSIONS

See the department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5257

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
