



MODIFICATION REQUEST:
61 Mobbs Lane, Epping (former Channel 7 site)
(MP 10_0107 MOD 4)
Torrens Title Subdivision of Building 3 and associated land into 13 lots



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

March 2012

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EXECUTIVE SUMMARY

This report is an assessment of a section 75W modification application MP10_0107 (MOD 4) lodged by Meriton Apartments (the proponent) requesting modifications to the project approval for MP 10_0107, which permitted the construction of Buildings 1, 2 and 3 at 61 Mobbs Lane, Epping.

The application seeks approval to modify the description of the approved development in Schedule 1 of the Instrument of Approval for MP 10_0107 to permit the subdivision of the land associated with Building 3 into 12 neighbourhood lots ranging in size between 281.5 m² and 325 m² and one 168 m² neighbourhood property lot. The proposed lots will form part of a Neighbourhood Scheme, which would be a subsidiary scheme to the Community Scheme covering the whole of 61 Mobbs Lane, Epping, which was approved under an earlier project application (MP08_0258 MOD 3).

The modification application was placed on the department's website and Parramatta City Council (Council) was notified in writing. The Council advised that it raises no objection to the application.

The department has assessed the merits of the proposed modifications and considers them to be minor in nature. The modifications would not result in any design changes to the development from the previous approval, and would not give rise to any environmental impacts. In addition, the proposed Plan of Subdivision is consistent with the concept plan for the community title subdivision approved under MP08_0258 MOD 3. On this basis, the department considers that the modification application should be approved.

1. BACKGROUND

1.1 The Site

The site is known as 61 Mobbs Lane, Epping. It is approximately 24km from the Sydney CBD within the Parramatta Local Government Area (see **Figure 1**). The buildings approved under MP 10_0107 (as modified) are currently under construction.

The site has an area of 8.9ha, with a frontage of approximately 500 metres to Mobbs Lane. The surrounding development is predominantly low density detached residential dwellings which are mainly characterised by Californian Bungalows and Federation style architecture. A TAFE Campus adjoins the site on the north eastern boundary.

The eastern proportion of the site is generally flat, while the western portion is undulating. The site has a change in elevation of approximately 30 metres from east to west. A drainage line flows into Terry's Creek along the north western section of the site.

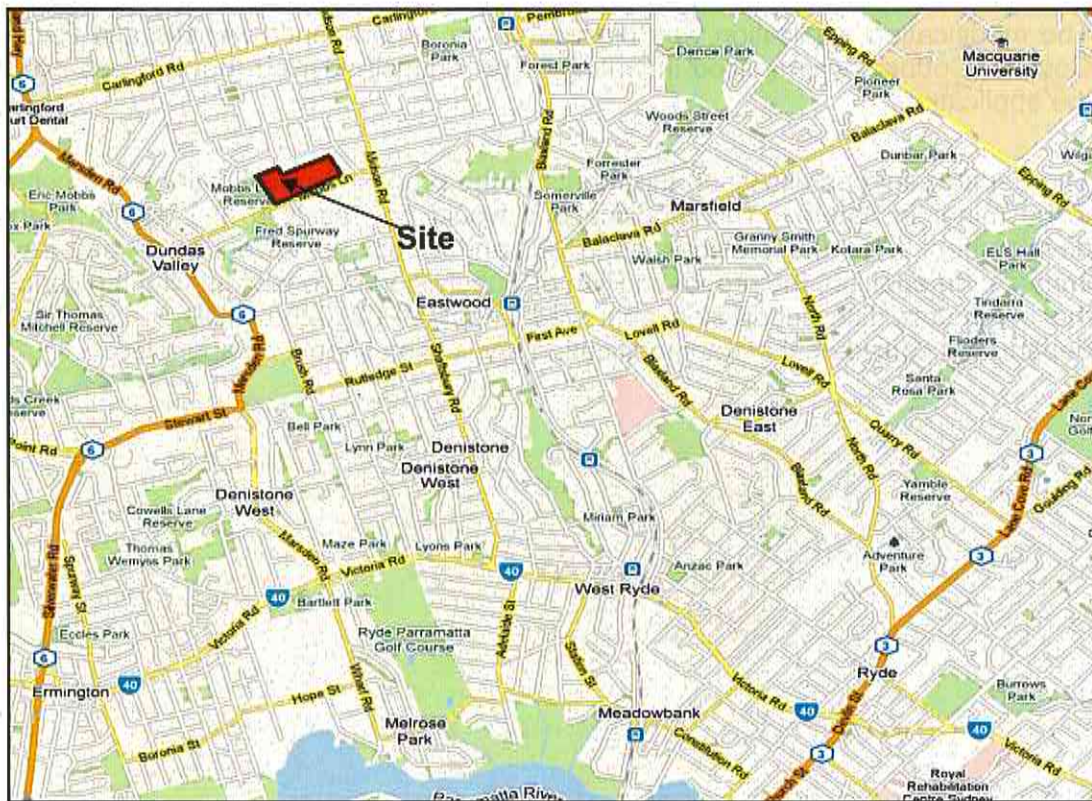


Figure 1: Site location

1.2 Approval History

State Significant Site Listing and Concept Plan

On 1 August 2006, State Environmental Planning Policy (Major Projects) 2005 (Amendment No. 6) was gazetted, which amended the Major Projects SEPP (now known as the Major Development SEPP) by listing the site as a State Significant Site in Schedule 3.

On 22 August 2008, the then Minister for Planning approved a Concept Plan (MP 05_0086) for the redevelopment of the site for residential and public open space uses. The Concept Plan was subsequently modified under delegation on 23 December 2008, to clarify the timing for the lodgement of a number of management plans. The approved building envelopes are depicted in **Figure 2** overleaf.

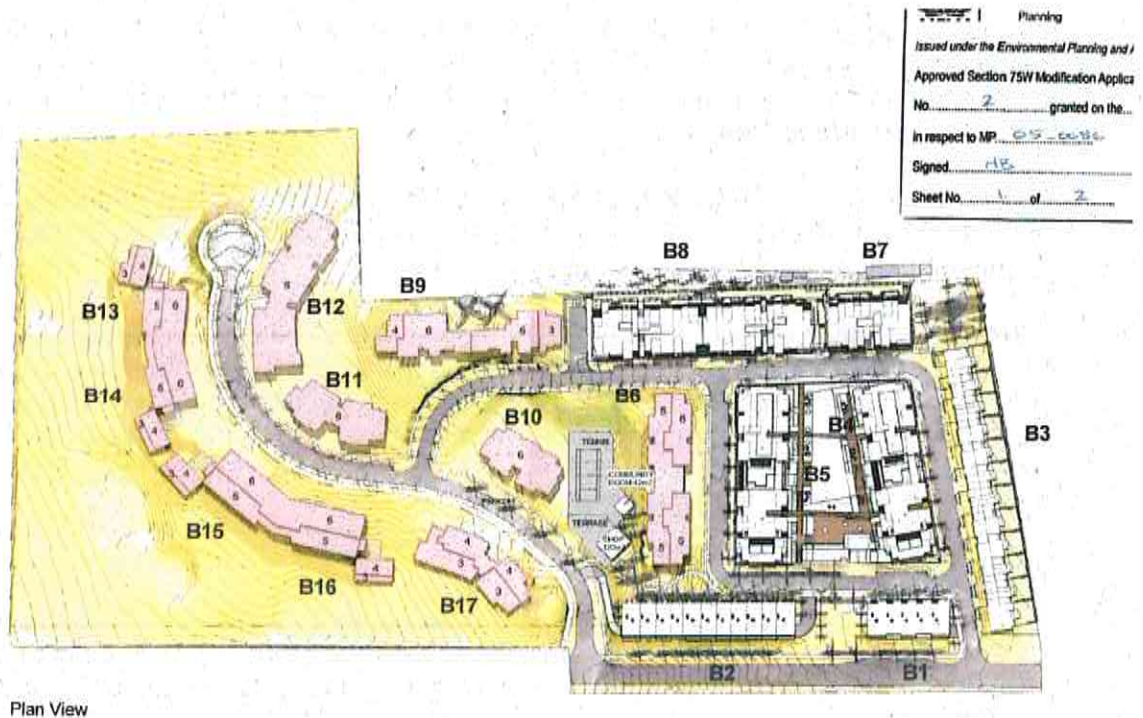


Figure 2: Building Envelopes Approved under the Concept Plan.

Early Works Approval

The Planning Assessment Commission (PAC) approved a project application (MP 08_0158) on 14 July 2010, for early works within the Concept Plan area. The approved works include:

- demolition of existing structures and tree removal
- construction of final land forms and landscaping
- internal and external roadworks
- services, utilities and stormwater management works
- a child care facility and private communal resident facilities
- consolidation of all lots within the Concept Plan area, and re-subdivision into a Community Title allotment, and one freehold lot for the approved child care centre.

The early works approval has subsequently been modified three times. The approved modifications include:

- revisions to drawing numbers SK-1019-01, SKC01 and DA01-DA04 to permit changes to the approved stormwater management system
- approval of an amended tree removal plan
- amendments to the approved community plan of subdivision to permit staged subdivision
- insertion of a new condition (Condition C19) to regulate the planting of replacement trees within the Concept Plan area.

It should be noted that the Community Plan (Plan No. 270729) approved under the early works application (as amended) has been submitted to the Land and Property Information (LPI) for registration. The LPI has advised that registration can occur, pending the finalisation of a positive covenant to provide the Council access to the neighbourhood association property.

Buildings 1, 2 and 3

On 17 January 2011, the PAC approved a project application (MP 10_0107) for the construction of buildings 1, 2 and 3, and associated car parking and landscaping works at 61 Mobbs Lane, Epping.

A modification (MOD 1) to MP 10_0107 was approved by the Deputy Director-General, Development Assessment and Systems Performance on 21 October 2011. MOD 1 permitted an amendment to the unit mix, internal and external design changes, new landscaped areas, and new courtyard fences.

A second modification (MOD 2) to MP 10_0107 was approved on 9 January 2012, by the Deputy Director-General, Development Assessment and Systems Performance, and permitted the strata subdivision of buildings 1 and 2.

A third modification (MOD 3) to MP 10_0107 was approved by the Deputy Director-General, Development Assessment and Systems Performance on 13 February 2012. MOD 3 permitted amendments to the southern and eastern elevations of Building 2 to correct minor drawing errors and facilitate compliance with the egress provisions of the BCA.

2. PROPOSED MODIFICATION

2.1 Modification Description

The modification seeks approval to:

- revise the description of the approved development in Schedule 1 of the Instrument of Approval to permit the creation of a Neighbourhood Scheme comprised of 12 neighbourhood lots, and one neighbourhood property lot within proposed Community Scheme 270729
- modify Condition A2 to insert the proposed Plan of Subdivision.

Figures 3, 4 and 5 depict the approved and proposed plans of subdivision.

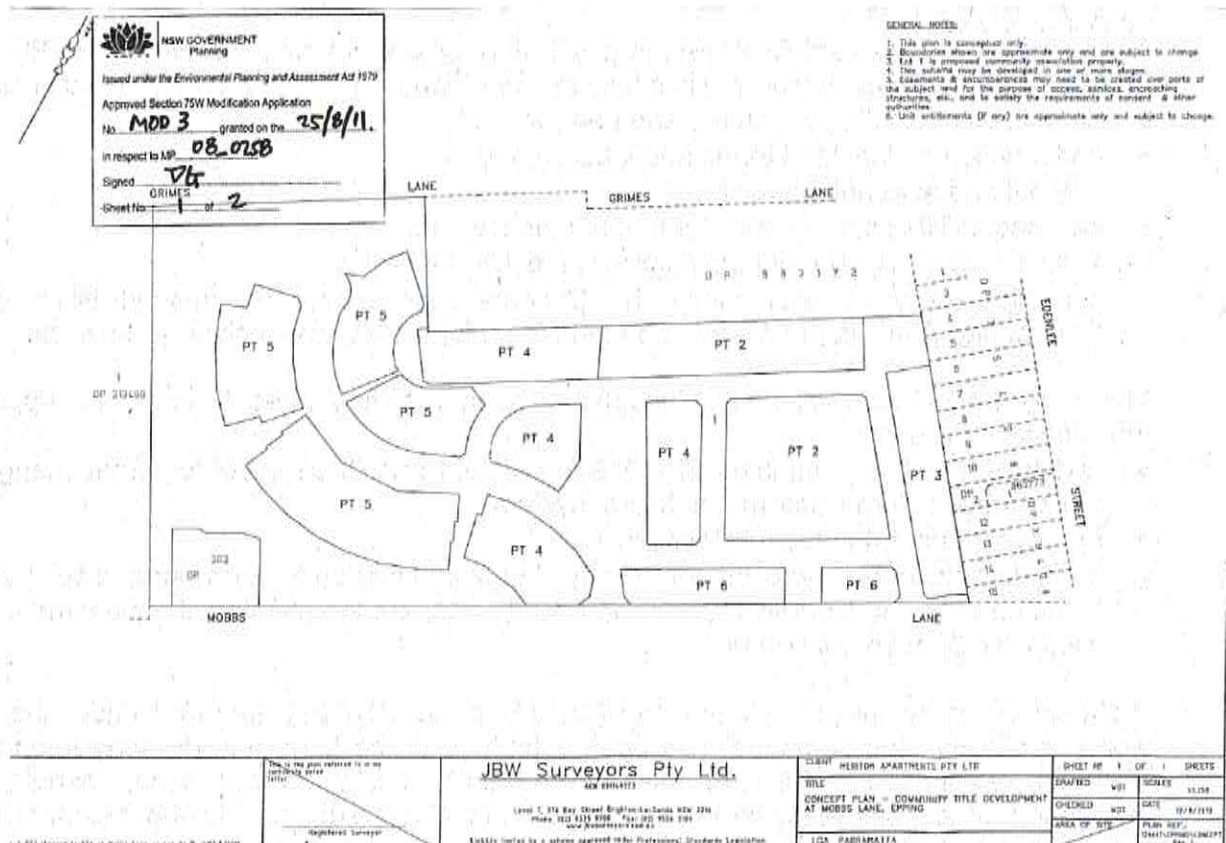


Figure 3: Approved Community Plan of Subdivision

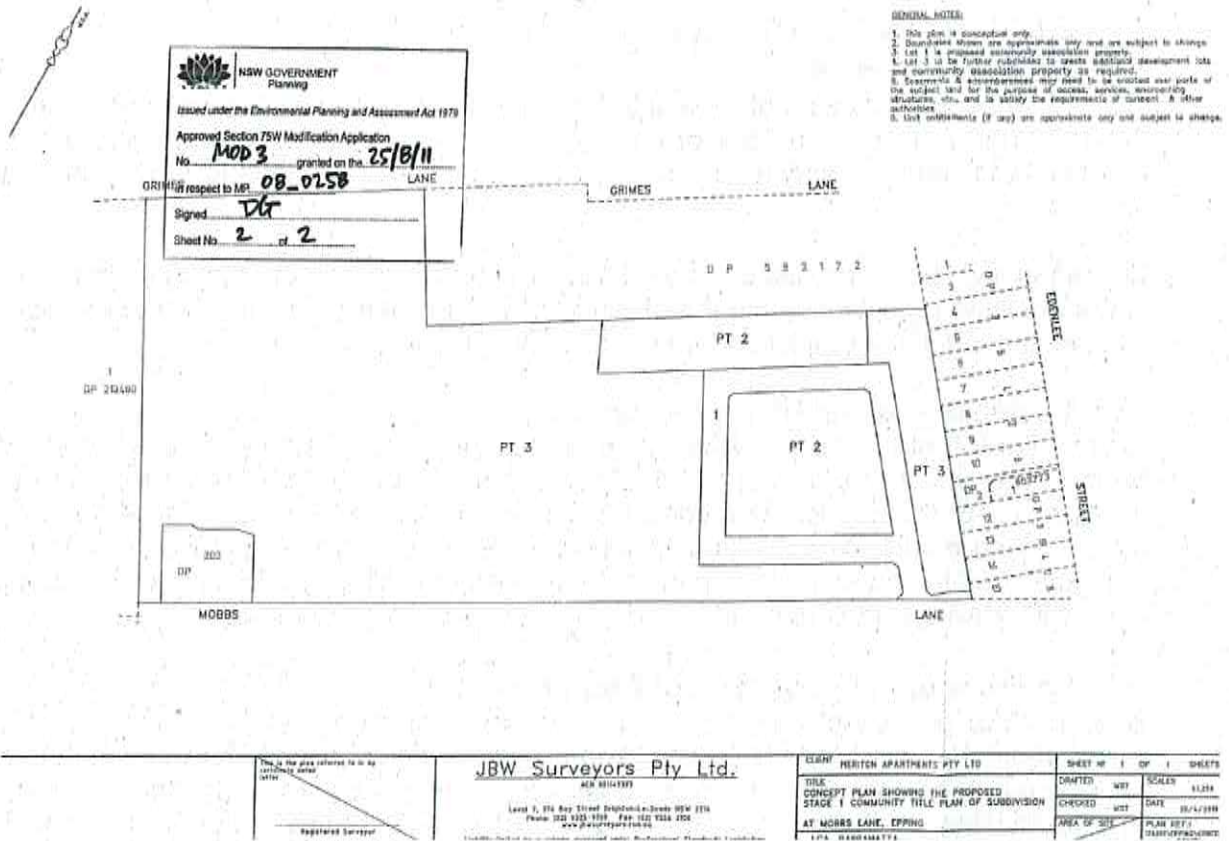


Figure 4: Approved Staging of Community Plan of Subdivision

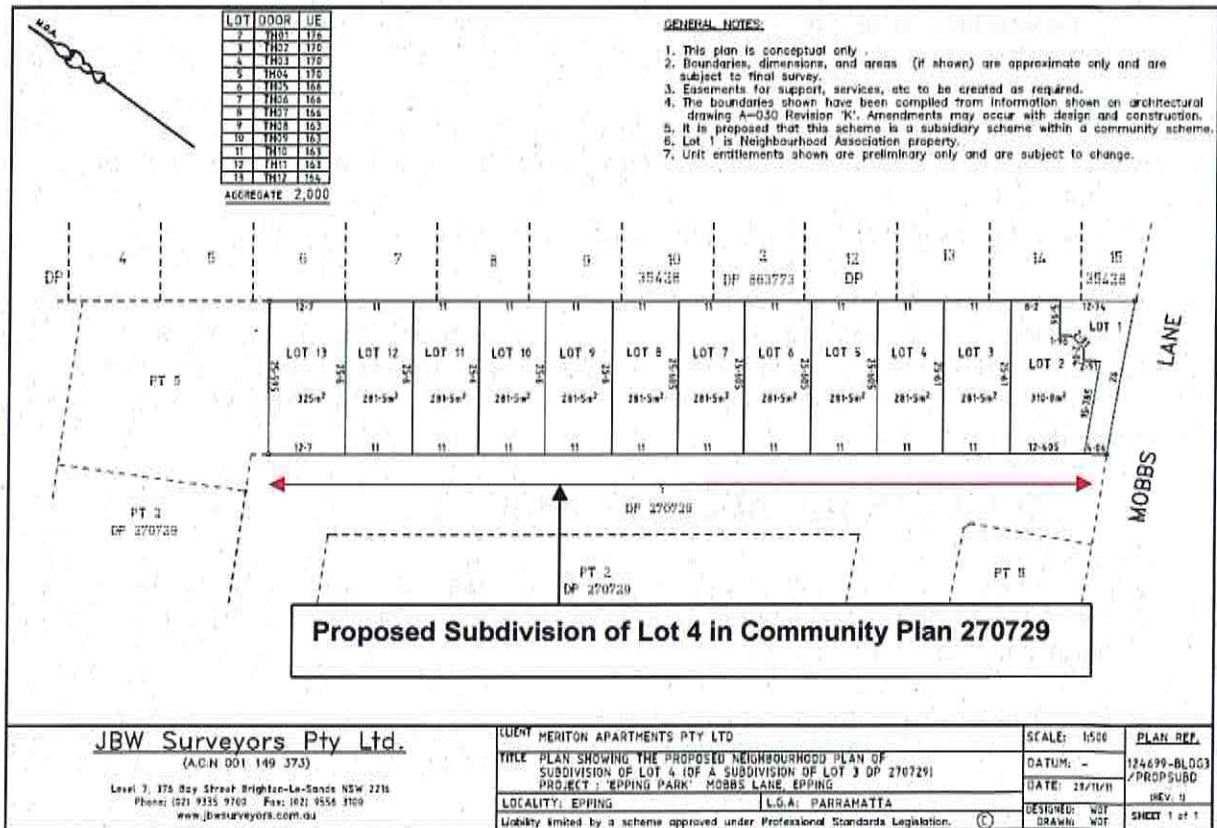


Figure 5: Proposed Plan of Subdivision.

3. STATUTORY CONTEXT

3.1 Changes to Part 3A

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

3.2 Modification of the Minister's Approval

Section 75W(2) of the Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend the description of the approved development in Schedule 1 of the instrument of approval, and modify Condition A2 to update the schedule of approved drawings, the modification will require the Minister's approval.

3.3 Environmental Assessment Requirements

Section 75(3) of the Act provides the Director-General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. Environmental Assessment Requirements were not issued for this modification as the proponent has addressed the key issues related to the modification requests.

3.4 Delegated Authority

The Minister delegated his functions to determine a modification request under section 75W of the Act where:

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

As previously outlined, the Council raised no objection to the application, and no public submissions were received. In addition, the proponent has made a political donation in relation to a previous application. As such, the application can be determined under delegation by the Deputy Director-General, Development Assessment and Systems Performance.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act and clause 8G of the EP&A Regulation 2000, the modification request was made publically available on the department's website. The department also notified the Council.

4.2 Submissions by public agencies

The Council reviewed the proposed modifications and raised no objection to the application.

4.2 Public Submissions

No submissions were received from the public.

5. ASSESSMENT

The key issues for the proposed modifications are outlined and addressed below.

5.1 Consistency with the Plan of Subdivision Approved Under MP 08_0258 MOD 3

The configuration of the proposed lots is consistent with the approved plan of subdivision. It should be noted that the approved Plan of Subdivision has been submitted to the LPI for registration. The LPI has advised that registration will occur, pending the finalisation of a positive covenant to provide the Council access to the neighbourhood association property.

5.2 Consistency with the *Community Land Development Act 1989* (CLD Act)

Section 26(2) of the CLD Act specifies that a consent authority must not grant consent to a subdivision affected by a neighbourhood plan unless it also gives consent to a proposed development contract for the neighbourhood scheme that complies with Schedule 2 of the Act.

The proponent has provided a Neighbourhood Development Contract that complies with the requirements of Schedule 2 of the CLD Act (see **Appendix C**). As such it is recommended that the Deputy Director-General, Development Assessment and Systems Performance approve the Neighbourhood Development Contract, and certify on the contract that approval has been granted to the development proposed by the instruments, plans and drawings that comprise the development contract, and that the instruments are not inconsistent with the development approval.

6. CONCLUSION

The department has considered the request to modify MP 10_0107 and the key issues associated with these modifications. The proposed subdivision of building 3 is recommended for approval on the basis that the proposed lot boundaries are consistent with the architectural drawings approved for Building 3, and the community subdivision of 61 Mobbs Lane approved under MP08_0258.

7. RECOMMENDATIONS

It is recommended that the Deputy Director-General, Development Assessment & Systems Performance:

- a) **Consider** the findings and recommendations of this report;
- b) **Approve** the proposed Neighbourhood Development Contract under section 26(2) of the *Community Land Development Act 1989* (CLD Act), and certify on the proposed Neighbourhood Development Contract, in accordance with section 26(5) of the CLD Act, that consent has been granted to the development proposed by the instruments, plans and drawings that comprise the development contract, and that the instruments are not inconsistent with the development consent;
- c) **Approve** the modifications, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act, 1979*, and;
- d) **Sign** the attached Instrument of Modification Approval (**Tag A**).


Director
Metropolitan and Regional Projects North


Executive Director,
Major Projects Assessment

15. 5. 12

Deputy Director-General
Development Assessment & Systems Performance