



**Planning &
Infrastructure**

***NATIONAL CENTRE OF INDIGENOUS EXCELLENCE
LOTS 1, 2 & 3 DP 817283
160-202 GEORGE STREET, REDFERN***

***Proposed by the National Centre for Indigenous
Excellence***

MP 06_0267 (MOD 7)

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

January 2012



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1. SECTION 75W MODIFICATION APPLICATION

This is a report on an application seeking to modify the Project Approval for the National Indigenous Development Centre (now known as the National Centre of Indigenous Excellence) at 160 – 202 George Street, Redfern (Lots 1, 2 and 3 DP 817283), which formerly accommodated the Redfern Public School. The site is bounded by George Street to the east, Phillip Street to the south, Cope Street to the west and residential development to the north. The subject site is shown in the figure below and the location of the multi-purpose sports and recreation building is hatched.

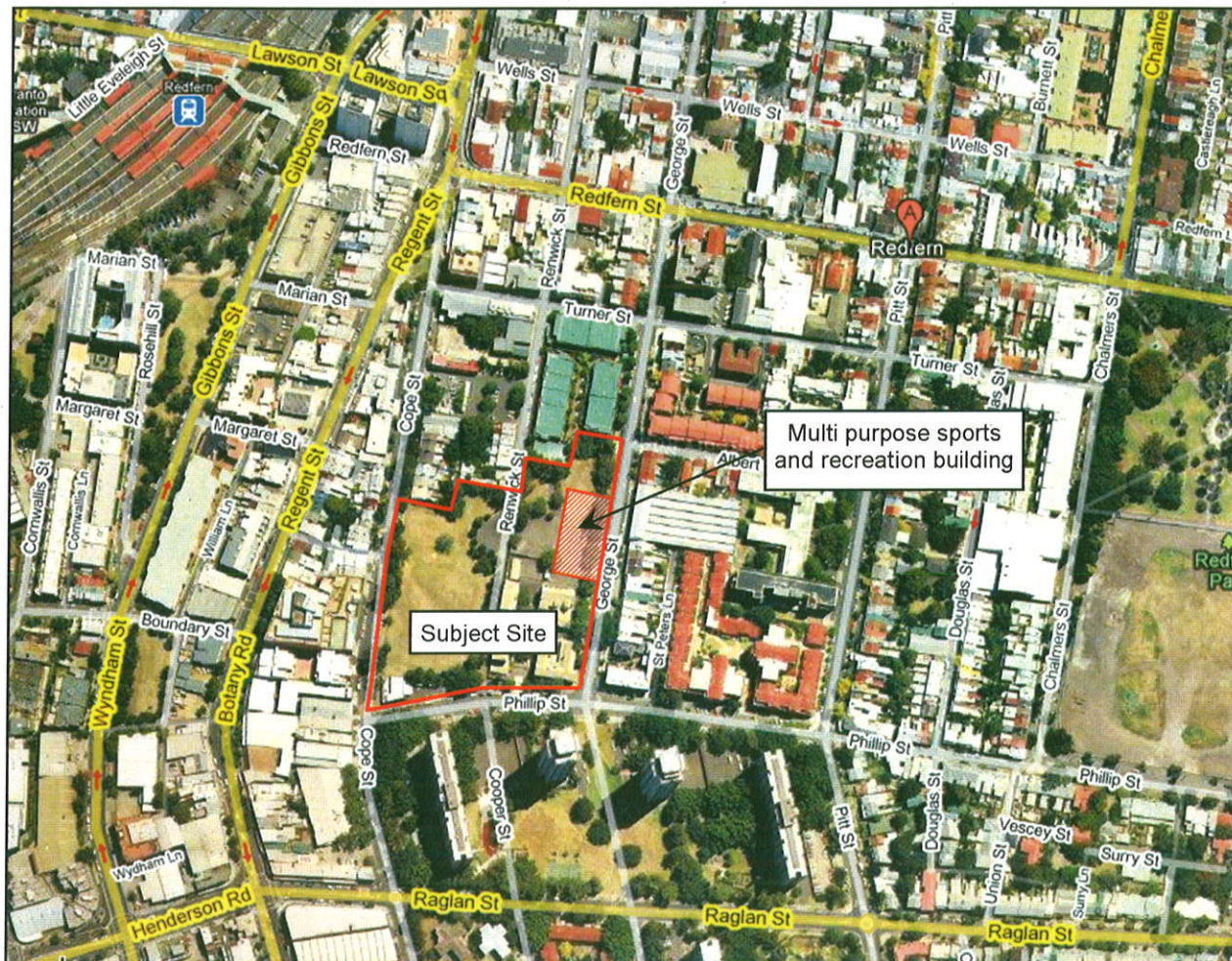


Figure 1: Site location

The site is located within the City of Sydney Local Government Area and the Sydney Metro Development Authority's operational area, and is owned by the Indigenous Land Corporation.

1.1 MAJOR PROJECT APPLICATION

Project Application MP 06_0267 was approved on 4 October 2007 and comprised the following:

- Refurbishment of existing school buildings for educational, office and dormitory accommodation uses;
- Demolition of existing toilet blocks associated with the former use of the site as a school;
- Construction of a multi purpose building, 25 metre swimming pool and the associated sport, recreational and educational uses;
- Construction of a new child care centre;
- Provision of a new multi football code playing field and associated earth works;
- Provision of landscaping and fencing around the perimeter and within the site;
- Remodelling the cul-de-sac configuration at the end of the existing Renwick Street carriageway to facilitate the construction of new car park and a manoeuvring area for large service vehicles;

- Construction of a new service vehicle access off George Street; and
- Refurbishment of existing car park and construction of a new car park with access from Phillip Street.

1.2 PREVIOUS MODIFICATIONS

MP 06_0267 MOD 1 was approved on 8 April 2008 to modify the staging of the construction; modify the staging of site remediation; increase the height of the western fence; and allow the contributions to be offset due to the public benefit being provided by the development.

MP 06_0267 MOD 2 was approved on 4 September 2008 to make minor amendments to the internal layout and George Street façade of the multi-purpose sports and recreational building (Building F), and the addition of amenity and first aid facilities to the pool terrace on Level 2.

MP 06_0267 MOD 3 was approved on 26 November 2008 to delete a condition of approval relating to external materials of Building F.

MP 06_0267 MOD 4 was approved on 30 April 2009 to delete the construction of the child care centre and replaced it with outdoor play areas including a basketball court.

MP 06_0267 MOD 5 was approved on 16 October 2009 to permit an earlier operating time of 6am rather than 7am for the internal gym facilities on the Eora Sports, Arts and Recreation Centre for a trial period of 12 months. This trial period has expired.

A copy of MP 06_0267 MOD 5 and accompanying Plan of Management is at **TAG B**.

MP 06_0267 MOD 6 was approved on 7 September 2010 to extend the closing time of the Eora Sports, Arts and Recreation Centre from 10pm to 12 midnight for 16 Friday nights per annum for the Midnight Basketball Program.

A copy of the project approval is at **TAG C**.

1.3 PROPOSED MODIFICATION

On 5 September 2011, the National Centre for Indigenous Excellence (the proponent) submitted an application to modify the Part 3A project approval pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (the Act).

This application seeks a permanent extension of the trialled operating hours for the internal gym facilities of the multi-purpose sports and recreation building from the current opening time of 7am to 6am, Monday to Friday.

The approved hours of operation of the Multi Purpose Building/ YMCA and Child Care Centre are between 7am and 10pm seven days per week (MP 06_0267).

2. STATUTORY CONTEXT

2.1 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 64, 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.

2.2 MODIFICATION OF A MINISTER'S APPROVAL

The modification application has been lodged with the Director General pursuant to s75W of the 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 proposed modification requires the amendment of conditions:

- A2 – Development Plans and documentation; and
- G3 – Hours of operation Multi Purpose Building/YMCA.

The subject modification seeks to change the terms of the Minister's determination through amending the conditions of approval.

2.3 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGR'S)

No additional environmental assessment requirements, pursuant to s75W (3) of the Act, were issued with respect to the proposed modification, as sufficient information has been provided to the Department in order to consider the application and the issues raised remain consistent with the key assessment requirements addressed in the original DGRs.

2.4 DELEGATION

The Minister for Planning and Infrastructure has delegated his powers and functions under Section 75W of the Act to the Deputy Director-General, Development Assessment and Systems Performance where:

- the relevant local council has not made an objection;
- there are fewer than 25 submissions in the nature of objections in respect of the project application; and
- a political disclosure statement has not been made (**TAG D**).

The Deputy Director-General is to note:

- Sydney City Council do not object to the proposal subject to conditions;
- less than 25 objections were made on the application;
- the proposal is not a major infrastructure project; and
- no reportable political donation has been declared in relation to the original application or any subsequent modification request.

In accordance with the Minister's delegation, the Deputy Director-General may determine this project under delegated authority.

3 CONSULTATION AND EXHIBITION

Under s75W of the Act, a request for a modification of an approval does not require public exhibition. However, under Section 75X (2) (f) of the Act, the Director General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the application to modify the approval was placed on the Department's website. In addition, nearby residents were notified of the proposal and invited to comment between 27 September and 11 October 2011.

The modification application was also referred to the City of Sydney Council (Council) and Redfern-Waterloo Authority (RWA) (since renamed Sydney Metropolitan Development Authority (SMDA)). SMDA were strongly supportive of the request to extend opening hours advising the NCIE is a valuable community facility open all year round to visiting groups and local residents.

Council provided a submission. Also, 19 public submissions were received (8 letters of support and 11 letters of objection). The proponent's response to resident's/Council's concerns is at **TAG E**.

The issues raised by Council and in the public submissions are discussed below:

3.1 PUBLIC AUTHORITY SUBMISSION

City of Sydney Council

Council records indicate no compliance issues have been raised in relation to the gym activities or its hours of operation. However, Council raises concern with noise from the pool's filter or mechanical system. On this basis, Council raise no objection to the earlier opening time subject to inclusion of conditions to address noise attributed to the pool's filter or mechanical system, alarm system and noise complaint's handling system. A copy of Council's submission is at **TAG F**.

Comment: Consideration of these issues are addressed in Section 4.

3.2 PUBLIC SUBMISSIONS

A total of 19 public submissions were received, including:

- 6 letters of support submitted with the modification application;
- 2 letters of support submitted in response to notification;
- 5 letters of objection; and
- 6 pro forma objection letters.

A summary of the support letters/emails made are detailed as follows:

- earlier opening time promotes healthy lifestyle for all, particularly indigenous and local community;
- assist with community driven initiatives (youth within juvenile justice system);
- 6am start time allows more people to access gym due to family/work commitments;
- 6am opening creates a better understanding of importance of leading a healthy lifestyle than a regular gym seeking to profit from patrons;
- later opening would reduce capacity of the centre to serve the local community; and
- the factory opposite on George St means noise from people attending centre is irrelevant; and
- impact on residents will be minimal.

A summary of the objections made are detailed as follows:

- degraded residential amenity;
- noise from vehicular traffic (truck deliveries / parking / buses) is noise intensive and will compromise early sleep in the morning;
- extended hours exacerbate traffic / parking demand in George Street from increased demand which exceeds existing car park and thoroughfare to the Eora Sports and Recreation Centre's entry capacity;
- management deny responsibility for noise / traffic generated by centre;
- history of non compliance with conditions, particularly operating hours;
- quarterly local resident consultation meetings are ineffective;
- if approved, opening times should be limited to 6 months only and noise monitoring to gauge noise levels; and
- garbage to increase on street.

4. CONSIDERATION OF PROPOSED MODIFICATION

The Department considers the key issues associated with this modification to be:

- intensity of use;
- noise;
- people loitering;
- litter;
- increase in parking demand / traffic generation; and
- non compliance with terms of consent / plan of management.

Intensity of use

A number of public submissions have raised the issue that the extended morning operating hours will result in detrimental impacts due to the unacceptable increased intensity of use of the centre within an area consisting of quiet residential streets.

The centre's internal areas consist of the gym equipment areas, activity rooms, fitness rooms, change rooms, reception and kiosk. The area comprises of 750m² of the total 1,000m² floor area and can accommodate up to 235 people. The proposal does not include the spin class and pool room areas, which will retain their existing 7am operational start times.

The proponent has indicated approximately 50 patrons and 3 staff are anticipated based on monitoring over the trial period. This equates to 50 patrons (approximate number) originally anticipated by MP 06_0267 MOD 5. On balance, given the limited anticipated level of usage, the Department considers that with adequate management of the facility, any adverse impact to residential amenity could be mitigated.

Noise impacts on residential amenity

Residential properties directly adjoin the facility. A number of these residents are concerned the earlier opening times will impact on sleep in a quiet residential area.

Sydney City Council indicates no record of any compliance complaints having been made in relation to the gym activities or its hours of operation. However, Council raises concern with outstanding issues of noise attributed to the pool's filter or mechanical system. Council raise no objection to the earlier opening time subject to inclusion of additional conditions to address noise attributed to the pool's filter or mechanical system, alarm system and to the introduction of a noise complaint handling system.

Existing Condition of approval F1 Noise Control- Plant and Machinery states that the noise from plant from the site shall not give rise to 'offensive noise', shall not exceed 'background noise level' (LA90, 15 minute) and shall not be audible in any habitable room of any residential property between 12 midnight and 6am. The Department considers the existing condition is sufficient to address the existing noise issue with the pool plant. The matter will be referred to the Department's Compliance team.

In relation to noise from the proposed extended operation time of the centre, noise attenuation measures were required as part of the original approval. In addition, noise impact strategies also exist in the trialled Plan of Management (Condition F19 Plan of Management). However, to ensure the amenity of the area is reasonably protected during the extended operating time, it is recommended that Council's recommended conditions for additional acoustic measures are incorporated within the revised Plan of Management (see amended condition F19).

Further, while the facility has been acoustically treated to ensure minimal adverse noise impacts to the surrounding residential neighbourhood, the proponent has committed to keeping the louvers on George Street closed during the extended hours of operation. The Department recommends the Plan of Management be amended to reflect this commitment by the proponent.

The Department has reviewed resident complaints and the expected level of patronage with the new opening time and is satisfied that the imposition of noise impact measures provide the necessary safeguards for neighbouring amenity. Further, the facility makes an important contribution towards the healthy life/work balance sought by the local community and on balance is considered acceptable.

Parking demand / additional traffic

The local residents raised concerns that the early morning start time will increase vehicular traffic and parking demand (cars, trucks and buses) in the surrounding residential streets.

The proponent advises the facility will cater primarily to the local community, which would most likely travel to the facility by walking. Further, the Department notes deliveries are only permitted after 7am in accordance with the terms of the approval and, the proponent has confirmed that no bus arrivals occur before 9am on weekdays to the facility.

Parking provisions considered in the original assessment of the project were considered adequate, given the on site provision (27 spaces) and the Council car park approximately 50 metres to the north of the site, between Renwick and Cope Streets (approximately 56 car spaces). As discussed above, the anticipated usage levels by patrons related to the extended hours of operation are equal to those monitored during the trial period. On this basis the existing parking provision is adequate to service the needs of the facility. The Department is therefore satisfied any impacts to residential amenity from additional traffic generation/parking demand would be minimal during the extended hours of operation.

Loitering patrons outside facility

The local residents have identified noise impacts from members loitering outside the facility will impact upon residential amenity during the earlier start time. The Department acknowledges the facility will cater primarily to the local community, which would most likely travel to the facility by foot and are not expected to generate excessive noise.

However, the Department considers any potential noise impacts from loitering patrons during extended opening times on residential properties could be mitigated by supervising and directing participants (as needed) to and from the centre. This will ensure people are behaving in a quiet and orderly manner during the earlier opening time. The Department recommends the Plan of Management be amended to reflect this commitment by the Proponent.

Litter

Residents are concerned that the volume of garbage on the street will increase as a result of the increased hour of operation during weekdays.

The proponent has advised people littering is not necessarily from the facility given that there are other employment and residential uses in George Street. The proponent has provided evidence that an undertaking from Council has been received to install litter bins along George Street, planned for January 2012. The proponent has requested Council that the litter bin be installed away from the facility entrance given it seeks to promote healthy lifestyles and has a non smoking policy. The proponent has committed to installing "no smoking" signage in its response to issues raised during notification.

The Department acknowledges garbage littered on the street is not the responsibility of the centre alone. The Department is satisfied adequate and appropriate measures have been undertaken by management of the facility to address any adverse impact to residential amenity from littering. On this basis, the Department recommends the Plan of Management be updated to include a reference to provide "no smoking" signage.

Non compliance with consent

A number of public submissions have raised the issue of ongoing compliance with the approved trading hours and ineffective quarterly community consultation meetings. Resident submissions request that in the event the proposal is approved, its use be limited to 6 months and noise monitoring equipment is installed to gauge noise levels from operation of the facility.

On 10 November 2011, the Department wrote to the proponent (following complaints from residents) advising that they must ensure the facility operates strictly in accordance with conditions of its approval and that the Department will continue to monitor the operational management of the centre to ensure compliance.

A review of the existing Plan of Management confirms that the complaints monitoring system provides for external feedback to be received electronically through the NCIE website. Further,

feedback from the Community Consultation Meetings are gathered and acted upon in 48 hours. The proponent has also advised a project manager is to commence in February 2012 in an attempt to more effectively manage community consultation including meetings.

The Department considers any adverse impact to residential amenity would be minimal given the extension of hours is primarily geared to allow before work users. Further, the specific additional conditions and updated commitments in the Plan of Management provide appropriate means to minimise potential adverse noise related to the extended hours of operation by the facility and movement to and from the centre.

In response to the residents call for a 6 month trial time frame to any consent and need for noise monitoring, the Department is satisfied that there are adequate measures available to appropriately mitigate and manage noise and related issues associated with the extended opening times, should a noise complaint be received.

6. CONCLUSION

The Department considers that the extension of opening hours is consistent with the services and functions of the NCIE, which provides educational and recreational facilities for the Indigenous population and the local community. The extension of hours provides a social benefit to the community by supporting healthier lifestyles with minimal environmental impact.

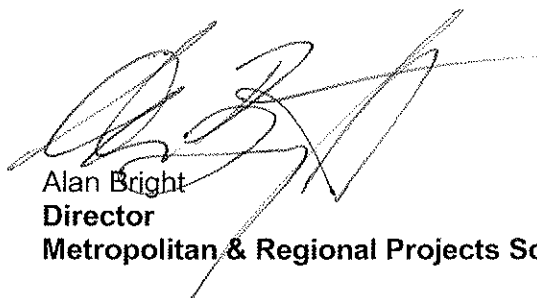
The Department has reviewed the submissions and considers that the potential impacts can be mitigated and managed appropriately through consent conditions and an updated Plan of Management during the extended opening times on weekdays. The Department has recommended that the Plan of Management be reviewed and updated and a copy provided to the Department for review prior to the operation commencing.

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

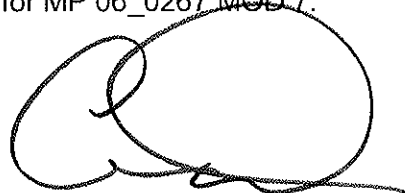
7. RECOMMENDATION

It is recommended that the Deputy Director General:

- (a) **Consider** the findings and recommendations in this report;
- (b) **Approve** the modification request under delegated authority, subject to conditions; and
- (c) **Sign** the attached Instrument of Modification for MP 06_0267 MOD 7.



Alan Bright
Director
Metropolitan & Regional Projects South



27.1.12
Chris Wilson
Executive Director
Major Projects Assessment