



**MODIFICATION REQUEST:  
Site 4B, Sydney Olympic Park  
(MP 06\_0273 MOD 5)**

***Description of Modification Request***

- modification to the northern commercial building rooftop to include one residential apartment unit
- amendments to the northern building rooftop plant layout.

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

December 2013

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## TABLE OF CONTENTS

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<b>1. INTRODUCTION</b>	<b>2</b>
<b>2. BACKGROUND</b>	<b>2</b>
2.1 The Site	2
2.2 Approval History	3
<b>3. PROPOSED MODIFICATION</b>	<b>4</b>
<b>4. STATUTORY CONTEXT</b>	<b>4</b>
4.1 Modification of the Minister's Approval	4
4.2 Delegated Authority	4
4.3 Environmental planning instruments (EPIs)	5
<b>5. CONSULTATION AND SUBMISSIONS</b>	<b>5</b>
<b>6. ASSESSMENT</b>	<b>6</b>
6.1 Residential Use	6
6.2 Built Form	7
6.3 Development Contributions	10
<b>7. CONCLUSION AND RECOMMENDATION</b>	<b>11</b>
<b>APPENDIX A MODIFICATION REQUEST</b>	<b>12</b>
<b>APPENDIX B SUBMISSIONS</b>	<b>13</b>
<b>APPENDIX C DIRECTOR-GENERAL'S CERTIFICATE</b>	<b>14</b>
<b>APPENDIX D RECOMMENDED MODIFYING INSTRUMENT</b>	<b>16</b>



## 1. INTRODUCTION

This modification application seeks approval for the addition of a single three bedroom apartment on the rooftop of the northern commercial building and associated reconfiguration of the rooftop plant at Site 4B, Sydney Olympic Park.

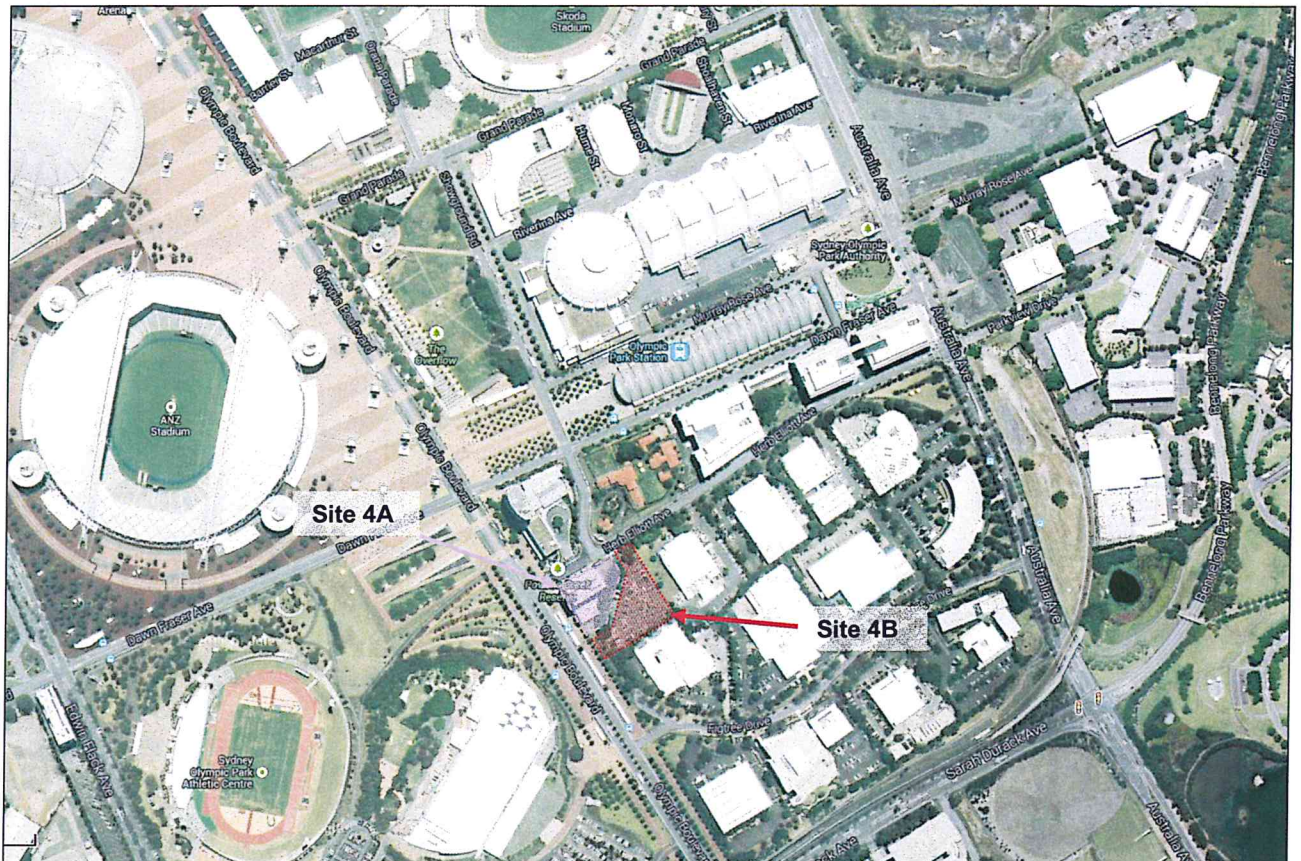
The department has considered the impacts of the proposal and is satisfied that the proposed modifications are acceptable. Therefore the department recommends that the modifications be approved, subject to conditions.

## 2. BACKGROUND

### 2.1 The Site

Site 4 is a corner site at Olympic Boulevard and Herb Elliott Avenue, within Sydney Olympic Park (SOP). Site 4 is divided into two sections, named Site 4A and Site 4B respectively. The site is separated by an area dedicated for public domain space. The project location is shown in **Figure 1**.

**Figure 1: Project Location**



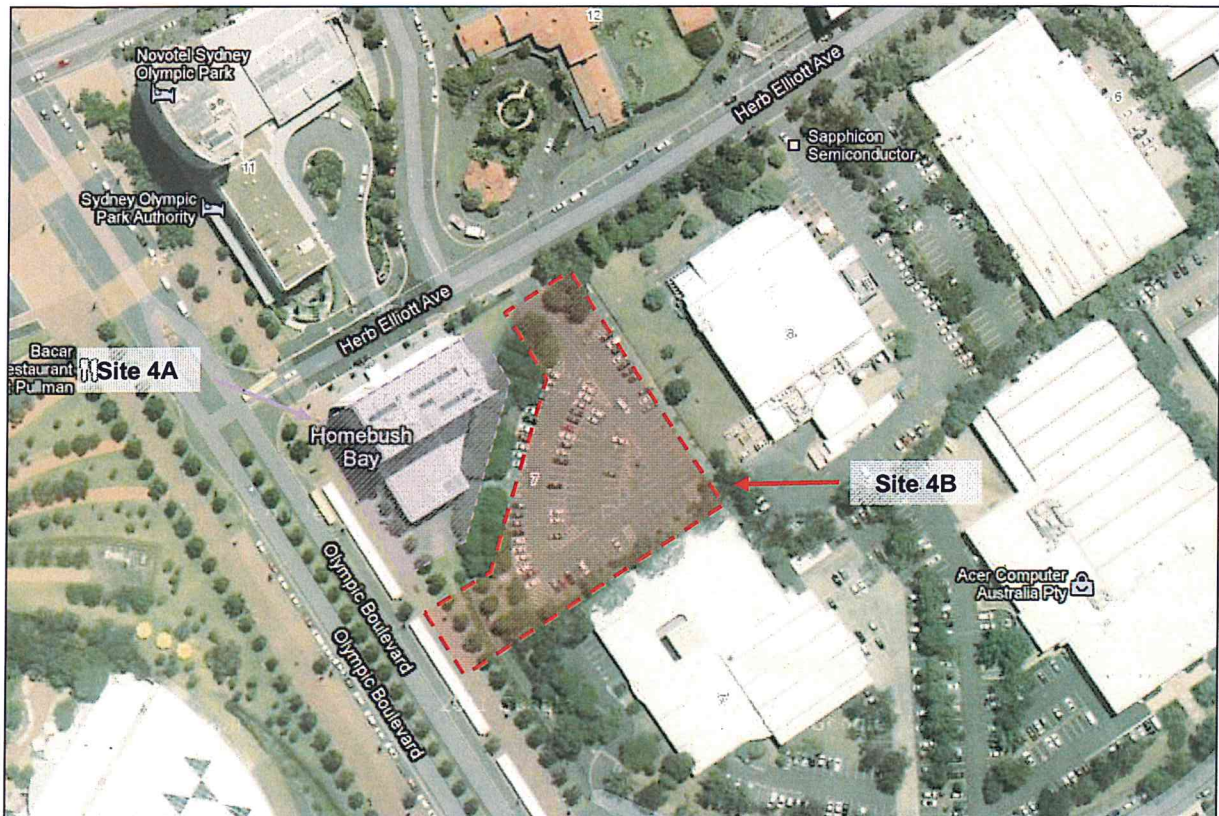
The subject site is known as Site 4B. Site 4B occupies the south eastern portion of Site 4 and is legally described as Lot 13 in DP1125680. The site is under the ownership of the Sydney Olympic Park Authority (SOPA). Site 4B has street frontages to both Herb Elliott Avenue and Olympic Boulevard, with Site 4A occupying the north western corner (see **Figure 2**).

Site 4A is fully developed and contains the 18-storey Pullman Hotel. The hotel was developed in accordance with the project approval MP 05\_0056, granted by the then Minister for Planning on 31 July 2006.



A more recently approved commercial development is currently under construction on Site 4B.

**Figure 2: Existing Site Layout**



## 2.2 Approval History

On 19 October 2007, the then Minister for Planning approved MP 06\_0273 for the construction of a seven storey commercial office building. The approved building comprises a café, lobby and loading dock at ground level, six levels of commercial office space above and five basement car park levels for 369 parking spaces. The approval also included landscaping and public domain works.

On 12 August 2011, the Director-General, as delegate for the Minister, approved a modification request (MP 06\_0273 MOD 1) for the reconfiguration and redistribution of floor space to create two separate building towers. The approved modification request comprised:

- staged construction of two commercial buildings comprising an eight storey building fronting Herb Elliot Avenue (northern building) and a 10 storey building fronting Olympic Boulevard (southern building);
- increase in GFA by 1,956 sqm (total of 26,099 sqm) and building height from seven storeys to eight and 10 storeys;
- 735 sqm increase in landscaped area to a total of 2,545 sqm as a result of the proposed deletion of the atrium entrance/lift lobby;
- removal of 17 trees, whereas 22 were previously approved for removal resulting in net increase of trees retained from four to nine; and
- reconfiguration of the basement car park with the provision of 273 parking spaces provided over five basement levels resulting in a reduction of 96 car spaces.

On 29 August 2012, the A/Director, Metropolitan and Regional Projects South, as delegate for the Minister, approved a modification request (MP 06\_0273 MOD 2) to insert a new condition prescribing a date to which the approval is liable to lapse.



On 5 December 2012, the Director, Metropolitan and Regional Projects North, as delegate for the Minister, approved a modification request (MP 06\_0273 MOD 3) for:

- relocation of two basement levels from the southern building to the northern building and rearrangement of the southern building basement;
- reduction in overall height of the northern building from 38.4 metres to 34.6 metres (or 33.4 metres to 32 metres excluding roof plant) to the finished ground level;
- revised building core arrangement for the northern building;
- confirmation of development staging; and
- deletion of condition B20 regarding Sydney Water requirements.

On 9 April 2013, the Director, Metropolitan and Regional Projects North, as delegate for the Minister, approved a modification request (MP 06\_0273 MOD 4) for:

- modification to the northern building ground floor layout and finished floor levels;
- amendments to mechanical plant arrangements;
- amendments to basement car parking and layout; and
- expansion of the rooftop plant enclosure.

### 3. PROPOSED MODIFICATION

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The modification request (MP 06\_0273 MOD 5), lodged by FDC Construction Fitout Pty Ltd (the proponent), seeks approval for the addition of a single three bedroom dwelling on the rooftop of the northern building and associated reconfiguration of the rooftop plant. The key numerical changes to the proposal as a result of the new dwelling are:

- increase in GFA by 295 sqm (total GFA 26,099 sqm);
- increase in height of the northern building from 32 metres to 34.8 metres;
- reduction in commercial car parking from 274 car spaces to 272 car spaces; and
- the provision of two residential car parking spaces.

The proponent is seeking approval for a residential dwelling to allow future occupants of the commercial premises and their families and friends the opportunity to stay close to the sports and entertainment venues in the SOP on a temporary basis.

### 4. STATUTORY CONTEXT

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#### 4.1 Modification of the Minister's Approval

In accordance with clause 3 of Schedule 6A of the 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.

Section 75W(2) of the EP&A 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 proposal involves modifications to the external built form of the building, including an additional storey, and an additional land use, the modification will require the Minister's approval.

#### 4.2 Delegated Authority

The Director-General has delegated his functions to the Executive Director, Development Assessment Systems and Approvals, to issue a Director-General's Certificate to waive compliance with development standards, under clause 21, Part 23, Schedule 3 of the State Environmental Planning Policy (Major Development) 2005 (MD SEPP).



Accordingly, a Director-General's certificate waiving compliance with development standards can be issued by the Executive Director, Development Assessment Systems and Approvals. This is discussed in Section 6.2.

In addition, the Minister has delegated his functions to determine a modification request under section 75W of the Act to the department where:

- the council has not made an objection, and
- there are less than 25 public submissions objecting to the proposal, and
- a political disclosure statement has not been made in relation to the application.

There has been no submissions received from the public objecting to the proposal and council has not made an objection to the proposed modification. There has also been no political disclosure statement made for this application or for any previous related applications.

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

### **4.3 Environmental planning instruments (EPIs)**

#### **State Environmental Planning Policy (Major Development) 2005**

The site is within the SOP which is identified as a State significant site pursuant to Schedule 3 of the MD SEPP.

The MD SEPP identifies maximum building heights and maximum floor space ratios that apply to development within the SOP. Pursuant to clause 18 of Part 23 of Schedule 3 of the MD SEPP, two maximum building height limits apply to the subject site, being 33 metres and 122 metres (excluding plant). The proposed modifications to the approved development seek to modify the approved building height of the northern building by 2.8 metres from 32 metres to 34.8 metres, which exceeds the 33 metre height control that applies to that part of the site. Accordingly, a certificate is required to vary the height control.

Clause 19 of Part 23 of Schedule 3 of the MD SEPP identifies the subject site as having a maximum floor space ratio of 6.5:1. The proposed modifications seek to increase the gross floor area (GFA) by 295 sqm to a total GFA of 26,394 sqm (FSR of 4.97:1), which is well below the permissible GFA of 34,515 sqm (FSR 6.5:1).

## **5. CONSULTATION AND SUBMISSIONS**

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In accordance with section 75X of the EP&A Act and clause 8G of the EP&A Regulation, the modification request was made available on the department's website. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means. No public submissions were received on the modification request.

The request was referred to Sydney Olympic Park Authority (SOPA) and Auburn Council for comment. Council has provided no comment. SOPA raised no objection to the proposed modifications and requested that a condition be included that requires the proponent to register a positive covenant to protect major event capacity by ensuring future residents are aware of the major events that are held at Sydney Olympic Park, including associated noise and traffic, so as to deter potential complaints regarding impacts associated with major events. The department notes that the approval requires the proponent to register all relevant covenants prior to the final occupation certificate.



## 6. ASSESSMENT

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The department considers the key environmental assessment issues for the application to be:

- residential use;
- built form; and
- development contributions.

### 6.1 Residential Use

The site is zoned B4 Mixed Use and therefore residential use is permissible development within the zone. Whilst not applicable to transitional Part 3A development, the Sydney Olympic Park Master Plan 2030 (Master Plan 2030) provides guidelines and controls for development within the SOP and identifies the site as suitable for commercial uses.

The proponent contends that the residential use would be acceptable as the predominant use would still be commercial and SOPA raised no issues with the residential use given the realisation of the commercial activity. The proponent also indicated that the apartment would only be used by family and friends of the commercial occupier and not as a permanently occupied dwelling and separately strata titled. However, the proponent has also indicated that it could be leased out in the future.

The department notes that the central precinct within the SOP is a mixed use precinct and Site 4 itself contains both a hotel use and approval for retail and commercial uses. Whilst the dwelling would be located in a predominantly commercial sector of the central precinct, the department considers that provided adequate amenity can be provided for future residents and that the use would not impact on the viability of the commercial activity and surrounding major event facilities, the residential use could be compatible with the surrounding land uses.

The proponent has demonstrated that adequate solar access, distances to windows, private outdoor living space, storage, privacy and noise attenuation would be provided in accordance with the residential controls in Master Plan 2030. The proponent has also proposed two of the car spaces that were to be provided for the commercial floor space be allocated to the residential use. This would reduce the car parking available for the commercial uses, however, the car parking proposed for the commercial floorspace continues to comply with the maximum rate that applies to commercial development. A maximum rate is used for commercial development to promote the use of public transport and support a modal shift away from private vehicular use and therefore a reduction is considered appropriate. Also, whilst it is noted that the proponent's intent is to maintain the residential apartment and commercial floorspace under a single lease, the separate allocation of the car spaces is necessary as there is the potential for the residential dwelling to be tenanted separately in the future. The allocation of the two spaces meets Master Plan 2030 controls for residential car parking for a three bedroom dwelling.

The residential use would have negligible impacts on the viability of the commercial use as it is located on a separate floor. The proposed residential dwelling will incorporate double glazing to ensure that it can achieve the environmental and noise criteria in Master Plan 2030 for residential use in the vicinity of the major sporting and event facilities at SOP. The proposed residential dwelling would not impact on the viability or operations of the major sporting and event facilities.

The proponent has advised that the intended occupants of the apartment would generally be associated with the commercial occupier and therefore no approval for strata subdivision has been sought. The department notes that should the dwelling be sold in the future, the proponent would need to seek further approval for strata subdivision and ensure adequate access is provided for the residents. The department has included a condition that requires that access to common areas and facilities such as the lifts, garbage rooms and basement



parking be provided to the apartment and should the site be strata subdivided in the future that access is maintained to the apartment.

Accordingly, the department considers that the departure from Master Plan 2030 and the proposed modification to include the residential use is acceptable.

## 6.2 Built Form

### ***Rooftop Dwelling***

A maximum height limit of 33 metres applies to the site pursuant to clause 18, Part 23, Schedule 3 of the MD SEPP. The proposed modifications would increase the height of the building from 32 metres to 34.8 metres. Therefore, the proposal as modified would exceed the maximum height of 33 metres, which applies to the site pursuant to clause 18, Part 23, Schedule 3 of the MD SEPP. The development standard in the MD SEPP is not applicable where there is a Director-General's certificate issued under clause 21, Part 23, Schedule 3 of the MD SEPP in relation to transitional Part 3A applications.

The project approval (as modified) allows for one eight storey and one 10 storey building on the site. The proponent argues that as the proposal does not exceed the height of the neighbouring 10 storey component, the proposed increase from eight storeys to nine storeys can also be supported as the height increase is marginal and acceptable in the context of the locality.

A Director-General's certificate was issued for MOD 1 by the Deputy Director-General, Development Assessment and Systems Performance, under delegation from the Director-General, for the non-compliance of the eastern part of the 10 storey building (height of 38.05 metres) which extends into the 33 metre height zone. The proposed modifications result in further minor exceedances of the development standard for the eight story component of the project by 1.8 metres and therefore a new Director-General's certificate would be required.

The department considers the modified proposal and the non-compliance would not raise any matters of State or regional planning significance as the development standards for the site are site specific and therefore would not set an adverse precedent. Furthermore, the height of the building (inclusive of plant) would be approximately 37 metres, which is less than the previously approved 38.4 metres (reduced to 34.6 metres in MOD 3 due to modifications to the size of the plant) and therefore would have negligible impacts and comparable impacts with those previously found acceptable. An appropriate scale and built form would be maintained, with a larger and lower building than the slender and tall forms (such as the hotel uses), which are located within the tower zone along Olympic Boulevard (see **Figures 3 and 4**). The marginal increase would not detract or adversely impact on the tower forms envisaged along the spine of SOP. Therefore, the non-compliance for the project is considered acceptable as the height increase is minor and the nine storey building is still smaller than previous iterations of the eight storey building and it complements the envisaged surrounding built form (see **Figures 5 and 6**).

Architectural section drawing of the North Building, showing floor levels, structural grid, and elevations.

**North Building Floor Levels:**

- ROOF LEVEL: RL 54.155
- ROOF PLANT: RL 51.155
- SEVEN<sup>TH</sup> FLOOR: RL 47.155
- SIX<sup>TH</sup> FLOOR: RL 44.155
- FIF<sup>TH</sup> FLOOR: RL 41.155
- FOUR<sup>TH</sup> FLOOR: RL 37.155
- THIR<sup>D</sup> FLOOR: RL 33.155
- SECOND FLOOR: RL 29.155
- FIRST FLOOR: RL 26.155
- GROUND FLOOR: RL 19.155
- BASEMENT 1: RL 14.155
- BASEMENT 2: RL 13.155

**Structural Grid:**

- Grid 10: RL 66.05 Lift overrun
- Grid 9
- Grid 8
- Grid 7
- Grid 6
- Grid 5
- Grid 4
- Grid 3
- Grid 2
- Grid 1

**Other Labels:**

- RL 90.40 Pullman Hotel
- RL 22.4
- Loading Dock Entry
- HRB ELLIOTT AVENUE

[illegible]



**Figure 5: Artist Perspective view from Herb Elliot Avenue (Site 4B Northern building in foreground and Pullman hotel in background)**



**Figure 6: Artist Perspective view from Showground Road**



The modified proposal would also be in the public interest as it would be providing investment into a designated renewal area for the region and the State and an area which is seeking to diversify land uses.

The department considers the compliance with the development standard continues to be unnecessary in the circumstances of the case given the minor increase and negligible environmental impacts resulting from the modified proposal. Accordingly, a Director-General's certificate has been prepared for the site so that the maximum height is waived in this instance for the modified development.



### **Rooftop Plant**

The proposed modifications to the rooftop plant include the reconfiguration of the layout to accommodate the new residential dwelling. The height of the rooftop plant as modified would generally continue to comply with the controls in Master Plan 2030 except for two sections of the plant, which would marginally exceed the five metre control by approximately 0.6 metres.

The modifications are considered acceptable as the rooftop plant has been relocated to the southern part of the building and away from street. Whilst the reconfiguration increases the area of rooftop plant that is flush with the eastern elevation, the modifications are considered acceptable as the overall scale is considered to be acceptable within the location and the screening of the plant by the new residential dwelling and setback from Herb Elliot Avenue would improve the overall appearance of the rooftop plant. The improvements are considered an appropriate offset to the proposed modifications to the size and location of the plant.

### **6.3 Development Contributions**

Condition B22 of the Instrument of Approval requires the proponent to make a monetary contribution of \$954,440 to SOPA under the Sydney Olympic Park Development Contributions Strategy, as adopted by the then Minister for Planning on 31 May 2002. The Sydney Olympic Park Development Contributions Strategy was the applicable development contributions at the time of the project approval. The contribution rates applicable to the proposal are based on a rate per 100 sqm of floor space. Accordingly, given the increase in total GFA, the contribution requirement for the proposal is required to be amended, based on the original rate and subject to indexation. An additional development contribution of \$10,789 is required, as outlined in **Table 1**.

**Table 1: Sydney Olympic Park Development Contributions Strategy**

<b>Contribution Category</b>	<b>Rate of Contribution</b>	<b>Approved Amount</b>	<b>MOD 5 Amount</b>
Childcare	\$573 per 100sqm	\$149,547.27	\$151,238
Public Transport – Railway Station	\$1,445 per 100sqm	\$377,130.55	\$381,393
Public Transport – Transitway	\$362 per 100sqm	\$94,478.38	\$95,546
Roads & Traffic Management	\$1,152 per 100sqm	\$300,660.48	\$304,059
Workplace Travel Plans	\$28 per 100sqm	\$7,307.72	\$7,390
Streetscapes	\$97 per 100sqm	\$25,316.03	\$25,602
<b>TOTAL</b>		<b>\$954,440</b>	<b>\$965,229</b>

Condition B22 of approval is recommended to be amended accordingly.



## 7. CONCLUSION AND RECOMMENDATION

The proposed modifications are considered to be appropriate in the context of the site and will not result in any significant additional environmental impacts. The proposed amendments to the rooftop will support the promotion of a mix of land uses for the revitalised Sydney Olympic Park site and enable the provision of a more attractive rooftop. Accordingly, the department recommends that the modification request be approved, and the project approval be amended accordingly.

It is recommended that the Executive Director, Development Assessment Systems and Approvals:

- a) **Consider** the findings and recommendations of this report
- b) **Approve** the modification, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act 1979*, and
- c) **Sign** the attached instrument of modification approval (**Appendix C**).

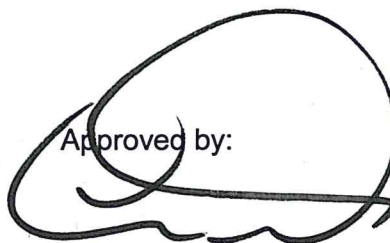
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## **APPENDIX A      MODIFICATION REQUEST**

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See the department's website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6139](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6139).



**APPENDIX B   SUBMISSIONS**

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**APPENDIX C    DIRECTOR-GENERAL'S CERTIFICATE**

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