



***MODIFICATION REQUEST:***

***College of Fine Arts, Paddington***

***Proposed by the University of New South  
Wales***

***MP 08\_0104 MOD 4 – Modification in  
relation to Electricity Substation  
requirement***

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

August 2012

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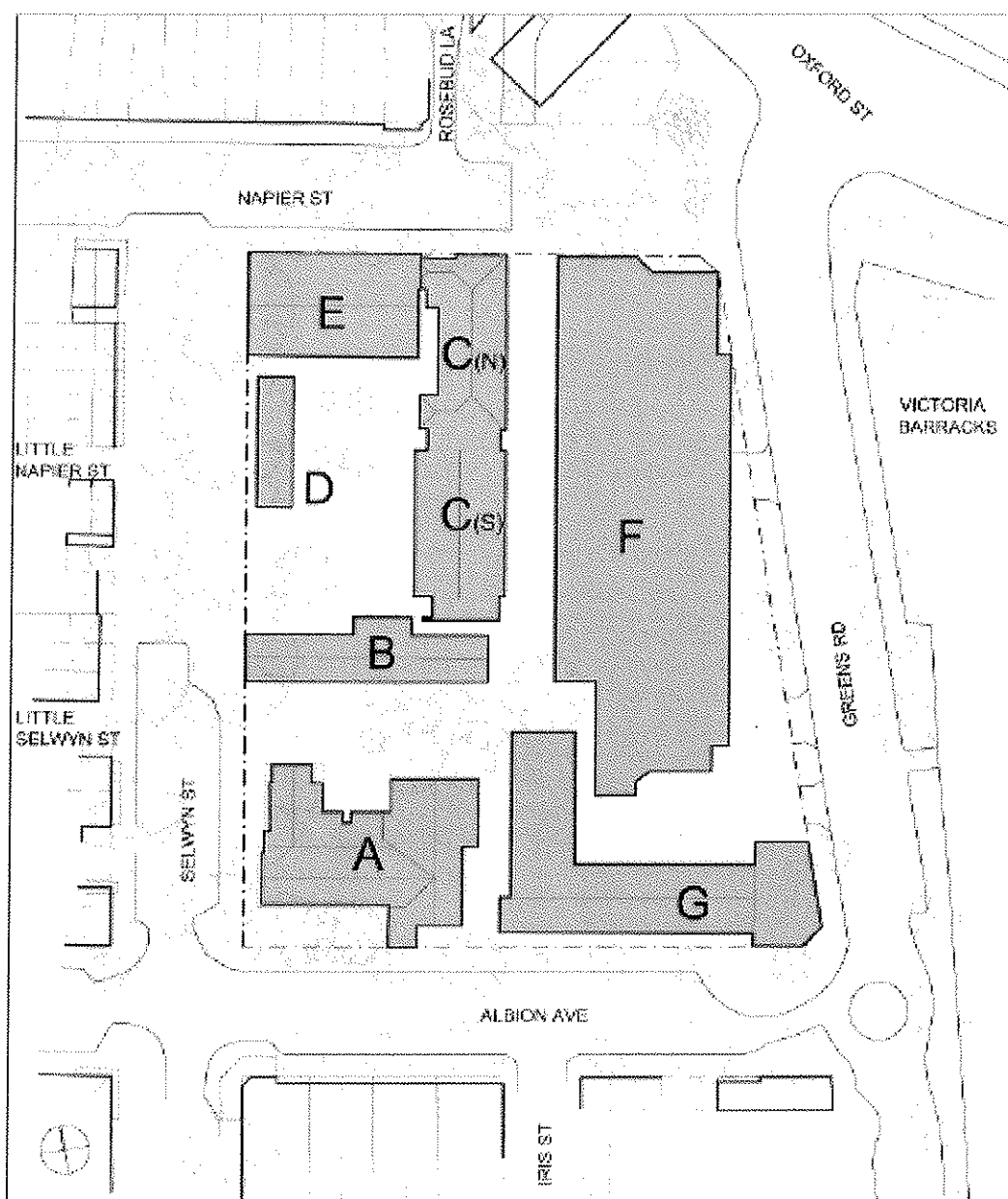
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## 1. BACKGROUND

The purpose of this report is to determine a request to modify the approved Project Application for the redevelopment of the College of Fine Arts, University of New South Wales, Paddington. The modification seeks to delete Condition No. 49 that relates to the provision of an electricity substation.

### 1.1 The Site and Locality

The site is located on the south western side of the intersection of Oxford Street, Napier Street and Greens Road, Paddington (refer to Figure 1 below). The site occupies an entire block bounded by Greens Road (east), Napier Street (north), Albion Avenue (south) and Selwyn Street (west).



**Figure 1:** Subject site in relation to Oxford Street and immediate locality

## 1.2 Previous Approvals

On 6 June 2008, the then Minister for Planning formed an opinion that the proposal was a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), applied. At the same time, the Minister agreed to delegate to the City of Sydney Council (Council) the responsibility for the preparation of the Director General's Requirements (DGRs) and assessment of the Project Application.



**Figure 2:** *The existing site (Building F) as viewed from Oxford Street to the north east. Napier Street accommodates the stand of trees to the right, in front of Building F*

On 16 December 2008, following an assessment of the proposal by Council, the then Minister for Planning approved the Project Application (MP 08\_0104), for the following:

- Demolition of existing structures (Building B, Building C (south) and Building D);
- Alterations and additions to Building F;
- Construction of a new 4 storey building with basement car parking for 62 cars; and
- Associated landscaping.

Works in accordance with the approval are currently being carried out on the site. The approval was subject to a number of conditions and has been modified as follows:

- **MOD 1** approved by the Director General on 11 June 2010 in relation to the wording of conditions on the approval, particularly in relation to sign-offs/approvals required prior to the commencement of works and clarification of timing of these approvals.
- **MOD 2** approved by the Acting Director of Government Lands and Social Projects on 21 December 2010 to allow for increase to the setback of Block D to Selwyn Street and other minor design changes.
- **MOD 3** approved by the Deputy Director General of Development Assessment and Systems Performance on 26 July 2011 to modify numerous aspects of the refurbishment and additions to Building F and internal courtyard, including updated design plans (incorporating the provision of a digital screen on the northern and eastern façades), deletion of car parking spaces, updated materials and finishes, new landscape plans and deletion/modification of associated conditions.

## 2. PROPOSED MODIFICATION

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The Proponent seeks to delete Condition No. 49 that refers to the provision of an electricity substation to service the development. The Proponent considers that the condition is not required and should be deleted as the location of the substation is shown on the approved plans and further that *State Environmental Planning Policy (Infrastructure) 2007* provides that development of an electricity substation by a public authority can be carried out without approval.

Condition No. 49 states:

### **49 Electricity Substation**

*If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Energy Australia, prior to a Construction Certificate for relevant building works being issued or the commencement of the use, whichever is earlier. If the substation is proposed to be sited on Council's land, Council's approval is required.*

On 8 August 2012, the Proponent submitted additional information to outline the process undertaken in determining the location of the substation. During the consideration of options to site the substation, the Proponent considered issues such as the proximity to existing vegetation, noise impacts upon sensitive adjoining receivers, minimisation of excavation, heritage stormwater matters and ease of access (24 hours per day, 7 days per week). The current site was considered to meet these requirements.

Further details of the proposed modification is provided in **Appendix A** and comments received from Council and Ausgrid are provided in **Appendix B**.

## 3. STATUTORY CONTEXT

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### **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 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 delete a specific condition 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 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 Director, Metropolitan and Regional Projects South, where:

- the relevant council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

The Department did not receive any public submissions and Council has not objected to the proposal. The Proponent has submitted a Political Donation Disclosure Statement that states no political donations have been made.

Accordingly, the application is able to be determined by the Director, Metropolitan and Regional Projects South, under delegation.

## 4. CONSULTATION AND SUBMISSIONS

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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 City of Sydney Council and Ausgrid for comment. Due to the nature of the proposed modification, the modification request was not exhibited by any other means. No public submissions were received on the modification request.

#### *City of Sydney Council*

Council raised concerns that should the condition be deleted, this may result in no requirement to provide a substation. Council's prefers that substations not be visible from a public place and should be designed as an integral part of the new building. Council requested that the Proponent demonstrate how the proposal satisfies Ausgrid requirements and the visibility issue. Should the substation be viewed from the public domain, Council requested that the substation be painted by COFA to lessen the impact of the substation on the streetscape.

#### *Ausgrid*

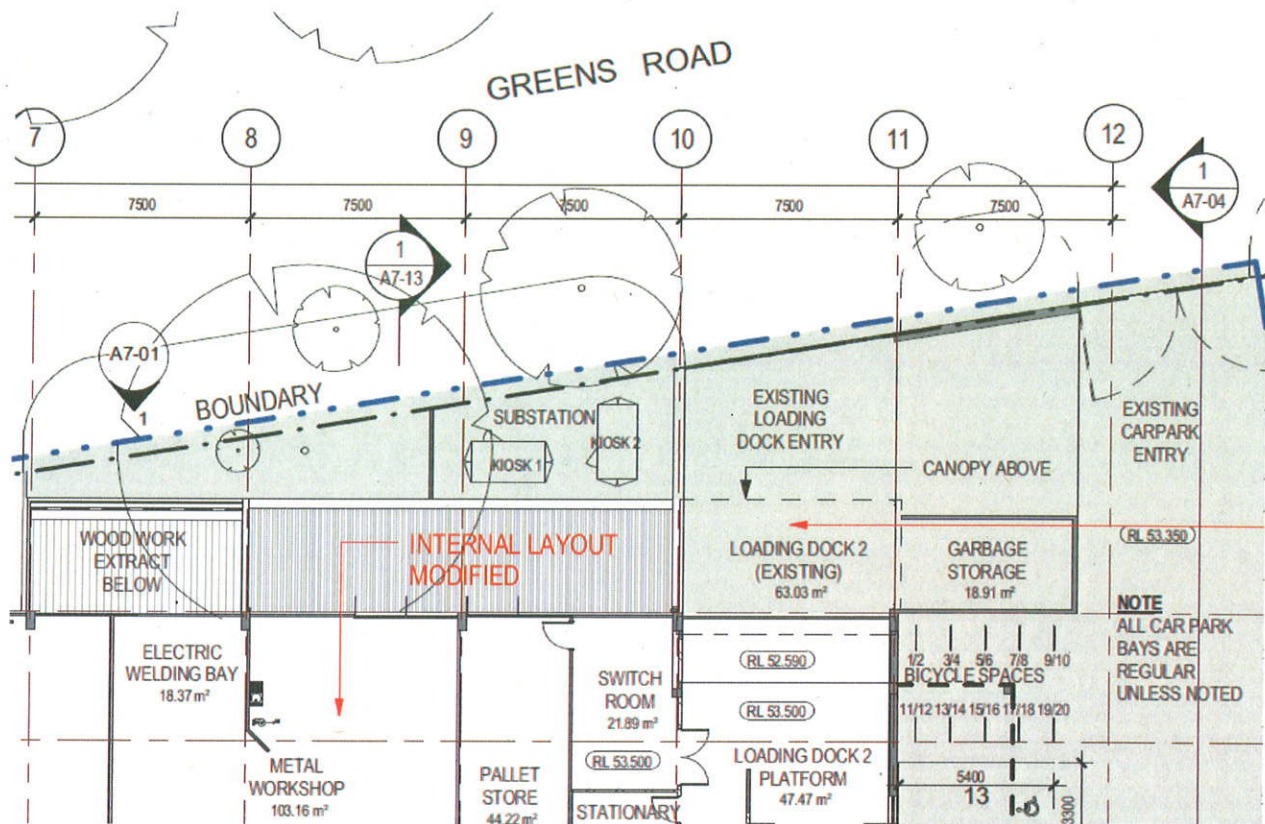
Ausgrid has advised that the layout of the substation has been agreed. While other substation locations on the site were not submitted, the location adjoining the Greens Road frontage meets Ausgrid's requirements and guidelines.

## 5. ASSESSMENT

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The proposed modification relates to the location of an electricity substation to support the development. The condition requires that an electricity substation be provided in an area within the development site, but not in any landscaped area or an area visible from the public domain.

The Proponent has requested deletion of the condition on the basis that the location of the substation is shown on the approved plans (**Figure 3**) and further that the Infrastructure SEPP provides for an electricity supplier the ability to decide where an electricity substation is located and therefore the condition is no longer required. The Infrastructure SEPP provides that 'Development for the purpose of an electricity transmission or distribution network may be carried out by or on behalf of an electricity supply authority or public authority without consent on any land'.



**Figure 3** – Approved plan illustrating location of substation along Greens Road frontage

Concerns were initially raised by Council that the location of the substation can still be viewed from the public domain and that if the condition were deleted, there would be no guarantee that a substation would be provided. Comments received from Ausgrid indicate that the location of the substation has been approved. The Department considers that this provides a level of certainty that the substation will be constructed to satisfy Ausgrid's requirements, thereby addressing Council's concern in this regard.

Following receipt of further justification from the Proponent, the Department considers that the Proponent has undertaken an appropriate level of review of alternatives into the siting of the substation. Despite the fact that the location is visible to the public domain, it is considered to be practically and appropriately located adjacent to the loading dock and service area. However, noting that it is visible to the street, the Department supports Council's suggestion to treat the façade of the substation, so that it will appear to be a more recessive visual element in the streetscape.

The Department notes that the condition still requires land dedication to the applicable energy supplier (if sought). Also as the development is not yet complete, the substation may still be moved if necessary. The Department is therefore of the view that the requirements of the condition remain current and as such should be modified, rather than deleted (deletion of the struck out words and insertion of the **bold and underlined**) as follows:

#### **49 Electricity Substation**

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, ~~but not in any landscaped area or in any area visible from the public domain~~, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Energy Australia, prior to a Construction Certificate for relevant building works being issued or the commencement of the use, whichever is earlier. If the substation is proposed to be sited on Council's land, Council's approval is required.

**The electricity substation is to be finished (painted or as a mural) to visually integrate into the streetscape and the immediate surrounds.**

## **6. CONCLUSION**

The Department has reviewed the modification request and is generally satisfied that the Proponent has considered alternative locations for the proposed substation. The Department does not however consider that it is appropriate to delete the condition on the basis that the requirements of the condition remain current, as construction is not yet complete.

Details have been received that address Council's initial concern and the Department supports Council's recommendation to treat the façade of the substation. Condition No. 49 is therefore recommended to be modified as stated above.


## **7. RECOMMENDATION**

It is recommended that the Acting Director of Metropolitan and Regional Projects, as delegate for the Minister for Planning and Infrastructure:

- note the information provided in this report;
- approve the modification request, subject to conditions; and
- sign the attached modifying instrument.

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

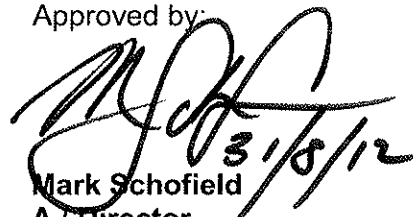
Endorsed by:



3/8/12

**Ben Lusher**  
Team Leader  
Metropolitan & Regional Projects South

Approved by:



3/8/12

**Mark Schofield**  
A / Director  
Metropolitan & Regional Projects South

## **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=5390](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5390)

## **APPENDIX B SUBMISSIONS**

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## **APPENDIX C    RECOMMENDED MODIFYING INSTRUMENT**

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