



**Planning &
Infrastructure**

MODIFICATION REQUEST:
***External façade changes and amendment
to conditions to Dr Chau Chak Wing
Building
14-28 Ultimo Road, Ultimo
(MP09_0153 MOD 1)***



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

August 2012

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1. BACKGROUND

1.1 The Site

The University of Technology, Sydney (UTS) has lodged a section 75W application (MP09_0153 MOD 1), seeking to modify the design of the Dr Chau Chak Wing Building at 14-28 Ultimo Road, Ultimo, and amend the conditions of approval for MP09_0153.

The site is bounded by Mary Ann Street, Omnibus Lane, Ultimo Road and the Ultimo Pedestrian Network (UPN). A Location Plan is provided at **Figure 1 below**. The site is vacant and early works have commenced in accordance with a Part 4 approval issued by the City of Sydney Council (council).

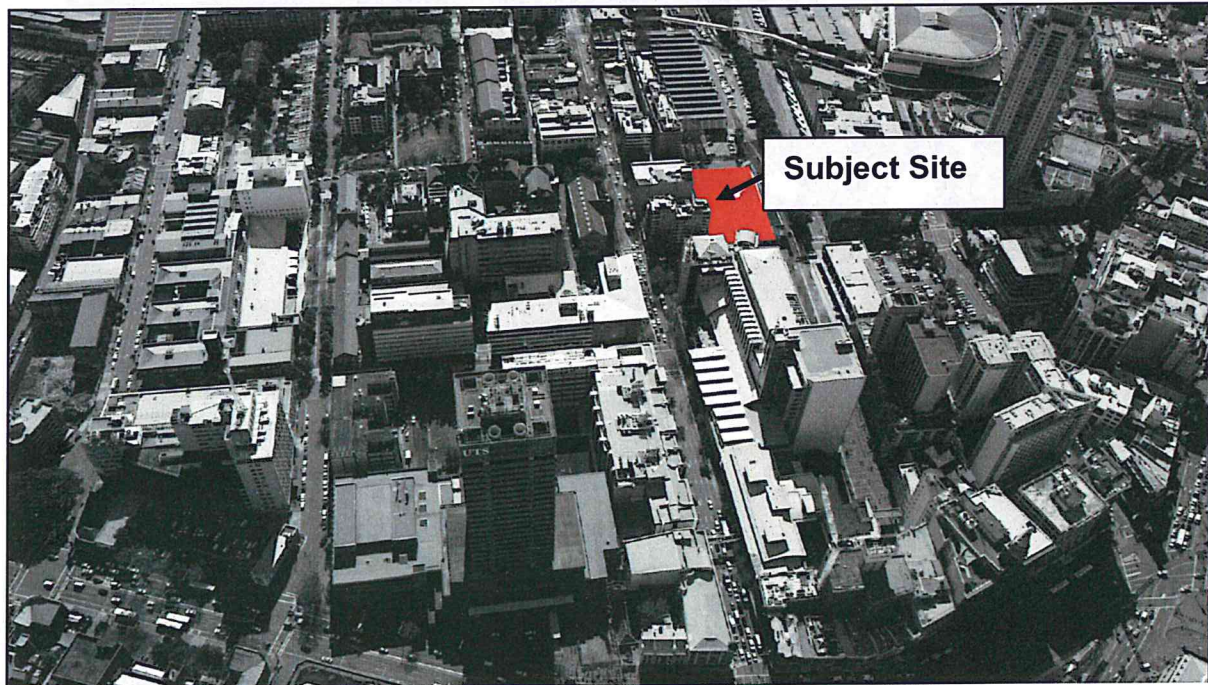


Figure 1: Project Location

1.2 Site Context

The site is located within a commercial and educational precinct. Immediately north of the site is the Powerhouse Museum and a number of 5 to 9-storey commercial buildings. To the east is the Transgrid building and the embankment of the former Darling Harbour Railway Line, which forms part of the UPN. To the south-east of the site is the Ultimo Street Railway Underbridge which is listed as a heritage item on the State Heritage Register. The ABC headquarters and the Inner City Childcare Centre are to the south of the site. To the west of the site is a 10-storey residential flat building and the Former National Cash Register Co building, which is listed as a heritage item in the Sydney Local Environmental Plan (LEP) 2005. **Figure 2** overleaf depicts the site and its context.

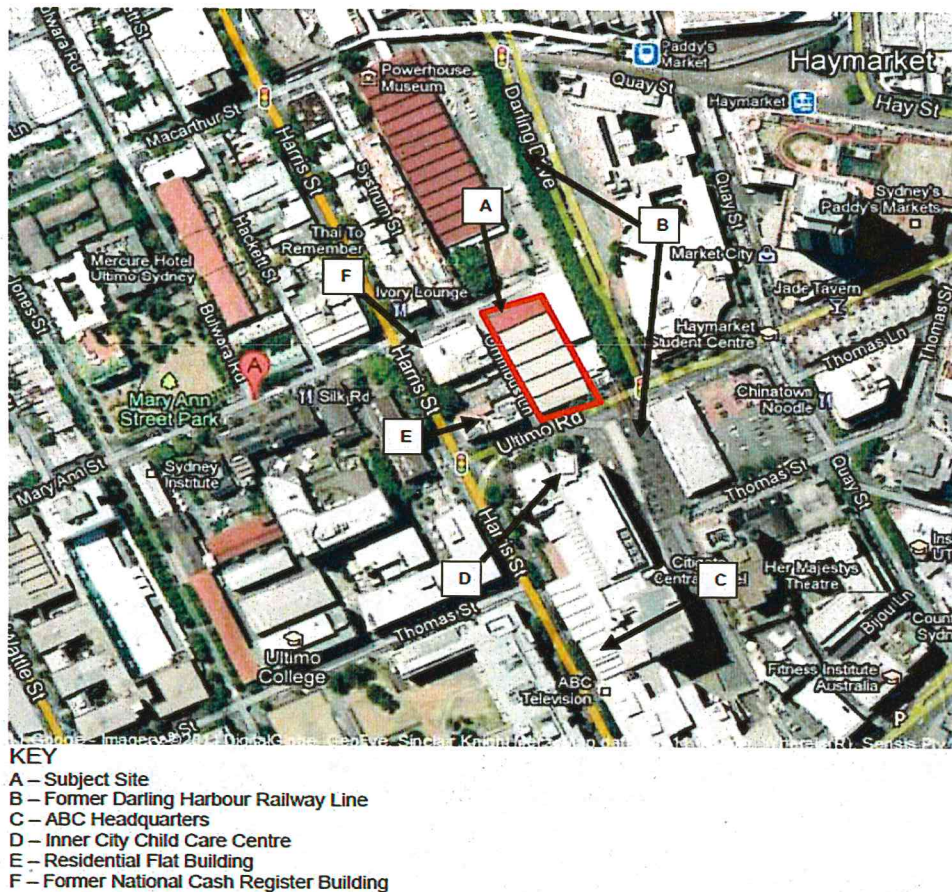


Figure 2: Site and Site Context

1.2 Approval History

The development was declared a major project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) applies on 5 August 2009, on the basis that it was development described in Group 7, *Clause 20 of Schedule 1 of the Major Development State Environmental Planning Policy (MD SEPP)*.

On 4 March 2012, the Deputy Director-General, Development Assessment and Systems Performance approved the UTS Faculty of Business building (known as the Dr Chau Chak Wing Building). The Project Approval (MP09_0153) permitted the construction and fit out of a 12-storey educational building with basement car parking accommodating 21 car parking spaces, 155 bicycle parking spaces, and a tri-generation plant.

The building is designed by world renowned architect Frank Gehry and demonstrates design excellence. It will serve as an iconic building in the Ultimo-Pyrmont area. It will also facilitate the expansion of the UPN which, when finalised, will provide a direct pedestrian and bicycle connection to Darling Harbour, Railway Square and the City of Sydney's cycle network.

2. PROPOSED MODIFICATION

2.1 Modification Description

The subject modification (MOD 1) seeks approval to undertake minor internal and external design changes, and amendment to the conditions of approval. The proposed modifications are outlined below:

2.1.1 Design Modifications

Northern Elevation

- flattening of a portion of the brickwork on Level 4, 7 and 8
- reduction in the extent of the glazed fly-bys between Level 2 and the roof

- levelling of the parapets to 1.28m on the Level 8 terrace and the roof
- deletion of the handrail, concrete planters and timber trellis on the Level 8 terraces
- increasing the tri-generation plant room floor area by approximately 11.5m² on Level 11, by moving the TSG room next to the water boiler room.

Eastern Elevation

- reduction in the extent of the glazed fly-bys between Level 2 and 5
- flattening of a portion of the brickwork between Level 4 and 11
- deletion of a window on Level 3
- deletion of two skylights on Level 5
- levelling of the parapet to 1.28m on the Level 8 terrace and the roof.

Southern Elevation

- deletion of the handrail, concrete planters and timber trellis on the Level 8 terrace
- reduction in the extent of the glazed fly- bys between Level 2 and the roof
- levelling of the parapets to 1.28m on the Level 8 terrace and the roof.

Western Elevation

- reduction in the extent of the glazed fly- bys between Level 2 and the roof
- levelling of the parapet to 1.28m on the Level 8 terrace.

First Floor Plan (Previously Basement Level)

- increasing the staff bike storage floor area by approximately 22 m² and increasing the number of bicycle parking spaces from 155 spaces to 171 spaces
- reconfiguration of the bin storage and amenities, and an increase in the number of showers from 7 to 9.

Second Floor Plan (Previously Ground Level)

- relocation of the flood gate 1.8m from the property boundary
- reduction in the capacity of the of bicycle storage racks on Mary Ann Street from 11 storage spaces to 8 storage spaces.

Levels 3 to 12 (Previously Levels 1 to 10)

- modifications to the stair on Level 3 and Level 4, and modifications to the building floor plate on levels 4 to 12 as a result of the proposed modifications to the fly-bys and geometry of the brick work
- reconfiguration of office rooms 06.70 and 06.71 on Level 6, and office rooms 07.61, 07.70 to 07.74 on Level 7, to improve their functional performance.

2.1.2 Modifications to Conditions

The application seeks approval to modify the following conditions of approval to allow Crown Certification:

- Condition A5
- Conditions B1 to B12, B14, and B16 to B29
- Condition C12
- Conditions E2, E4 to E7, E9 to E11, and E14.

In addition, the application seeks approval to modify conditions B16, B20, B26, B27 and C12 to:

- Facilitate a 2.3 m reduction in the setback between the property boundary and the car park security gate.
- Defer the construction of the public domain works to the second Section 109R Crown Certificate.
- Permit potential modifications to the wind mitigation measures proposed for use in the outdoor seating area on the UPN level of the building in the event that the proposed

mitigation measures do not integrate with the Sydney Harbour Foreshore Authority's final design for the UPN.

- Correct a typographical error in relation to the flood planning levels specified for the crest of the car park ramp and the top of the flood gate. These changes are to ensure that the planning approval aligns with the flood planning levels identified in the Flood Risk Assessment prepared by ARUP.
- Permit water proofing works that are required to be undertaken within the basement car park to facilitate the issue of a Section B Site Audit Statement (SAS).

The specific modifications to each condition listed above are discussed in greater detail in section 5.2 of this report.

2.2 Justification Modification

The amendments to conditions A2, B1 to B12, B14, B16 to B29, and Condition C12 are proposed to facilitate the issue of a section 109R Crown Certificate in lieu of a Construction Certificate. In addition, the modifications to Conditions E2, E4 to E7, E9 to E11, and E14 are sought to remove the requirement for certain works to be completed prior to the issue of an Occupation Certificate as the UTS is a Crown authority.

These modifications are sought on the basis that UTS is considered a Crown Authority under clause 226 of the EP&A Regulation 2000, for the purposes of obtaining certification that the proposed works comply with the relevant conditions of approval and the State's building laws under section 109R of the EP&A Act, in lieu of obtaining a Construction Certificate. Furthermore, as the university is not required to obtain a Construction Certificate under section 109M (2)(d) of the EP&A Act, the proponent is seeking to delete all references to an Occupation Certificate in Part E of the approval.

The design modifications are proposed to improve the functionality of the building's internal spaces and address construction issues raised by the proponent's building subcontractor.

3. STATUTORY CONTEXT

3.1 Changes to Part 3A

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 of the carrying out of the project under section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

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 project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend conditions A5, B1 to B12, B14, B16 to B29, C12, E2, E4 to E7, E9 to E11 and E14 to allow the issue of a 109R Crown Certificate, and modify the approved drawings, the modification will require the Minister's approval.

3.3 Environmental Assessment Requirements

Section 75(3) of the EP&A 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. DGRs were not issued for this modification as the proponent has addressed the key issues related to the modification request.

3.4 Delegated Authority

The Minister delegated his functions to determine a modification request under section 75W of the EP&A 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.

Council raised no objection to the application, and no public submissions were received. There has been no political disclosure statement made for this application, or for any related applications. Accordingly, the modification application is able to be determined under delegation by the Director, Metropolitan and Regional Projects North.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

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

4.2 Submissions by public agencies

Council raised no objection to the proposed modifications. Notwithstanding, the Council requested that the proponent provide additional information to demonstrate that the proposed reduction in the setback between the property boundary and the car park security gate will not result in queuing along Ultimo Road during peak hours.

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 Design Modifications

The application seeks approval to undertake the following design modifications:

- Amend the extent of the glazed fly-bys on the western facade between Level 2 and the roof of the building.
- Flatten the sculptural brick parapets on the eastern and western elevations to a height of 1.28m on level 8 terraces and the roof level.
- Reduce the curvature of the brickwork on the eastern elevation.
- Modify the configuration of office rooms on levels 6 and 7.
- Reconfigure the amenities and increase the number of bicycle parking spaces within the basement car park from 155 to 171.

These modifications are depicted in **Figures 3 to 6**.

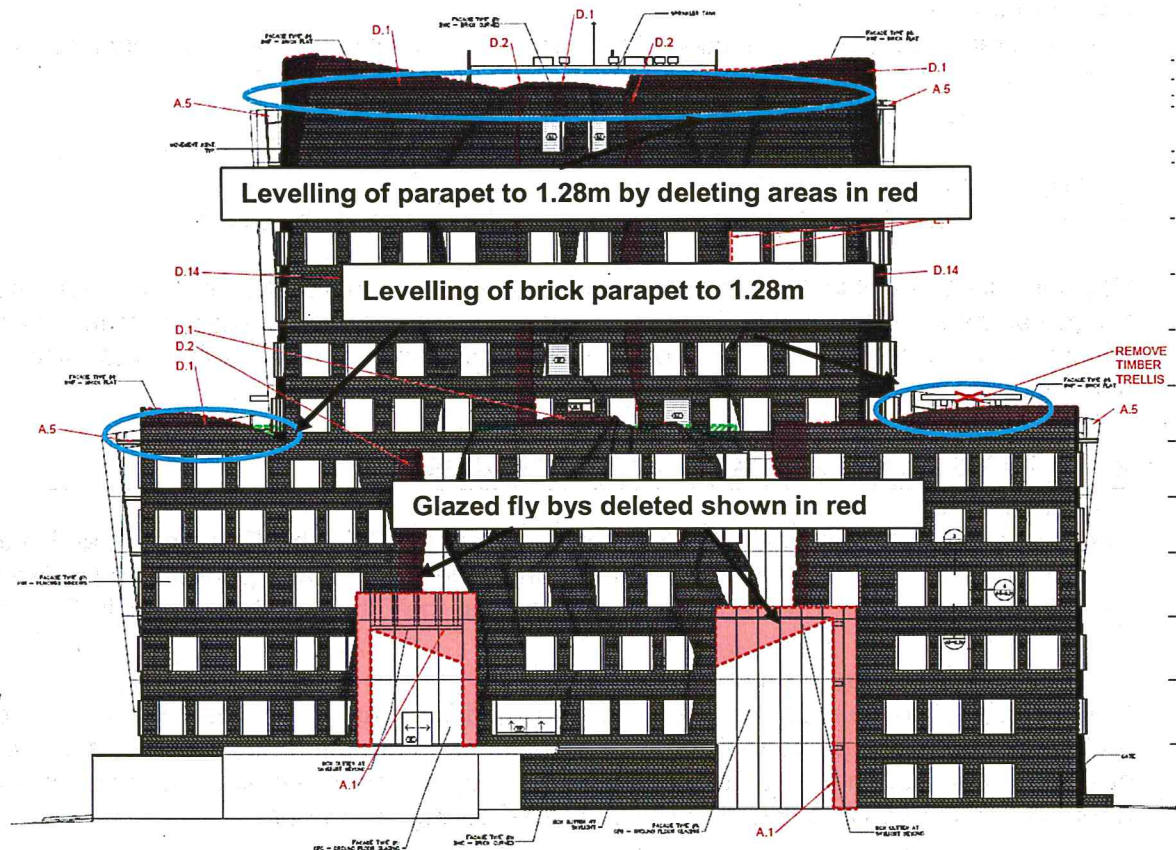


Figure 3: Proposed Modifications to the Eastern Elevation

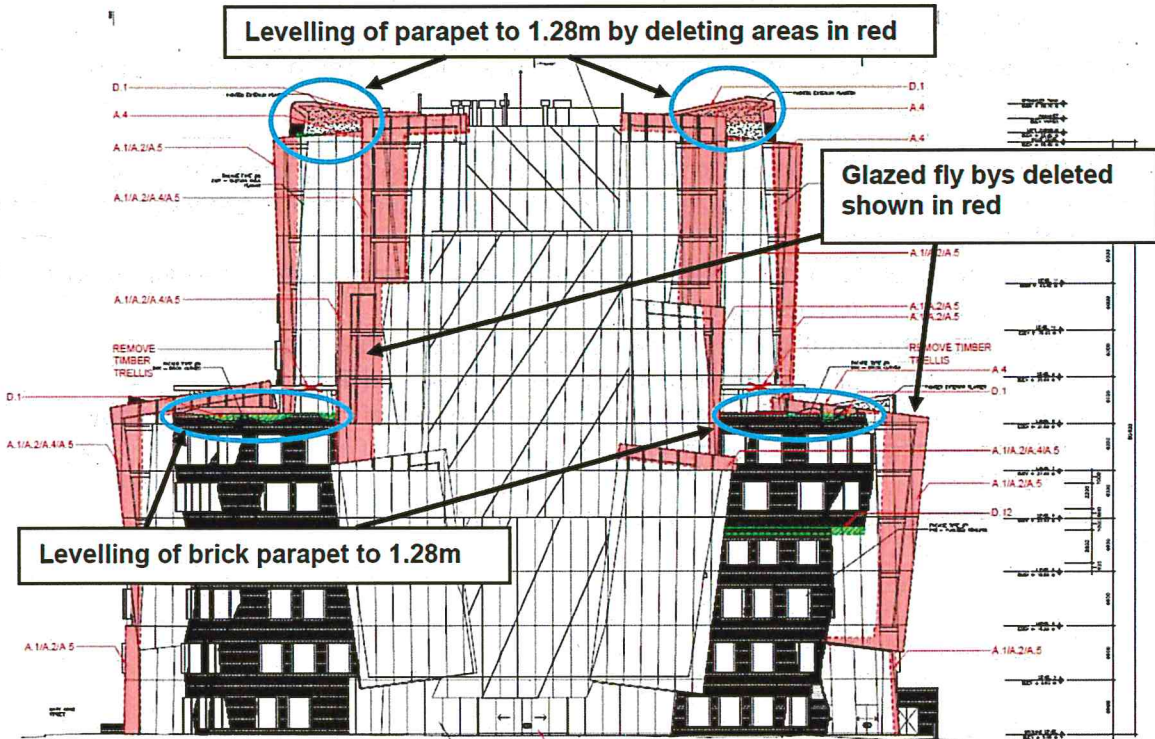


Figure 4: Proposed Modifications to the Western Elevation

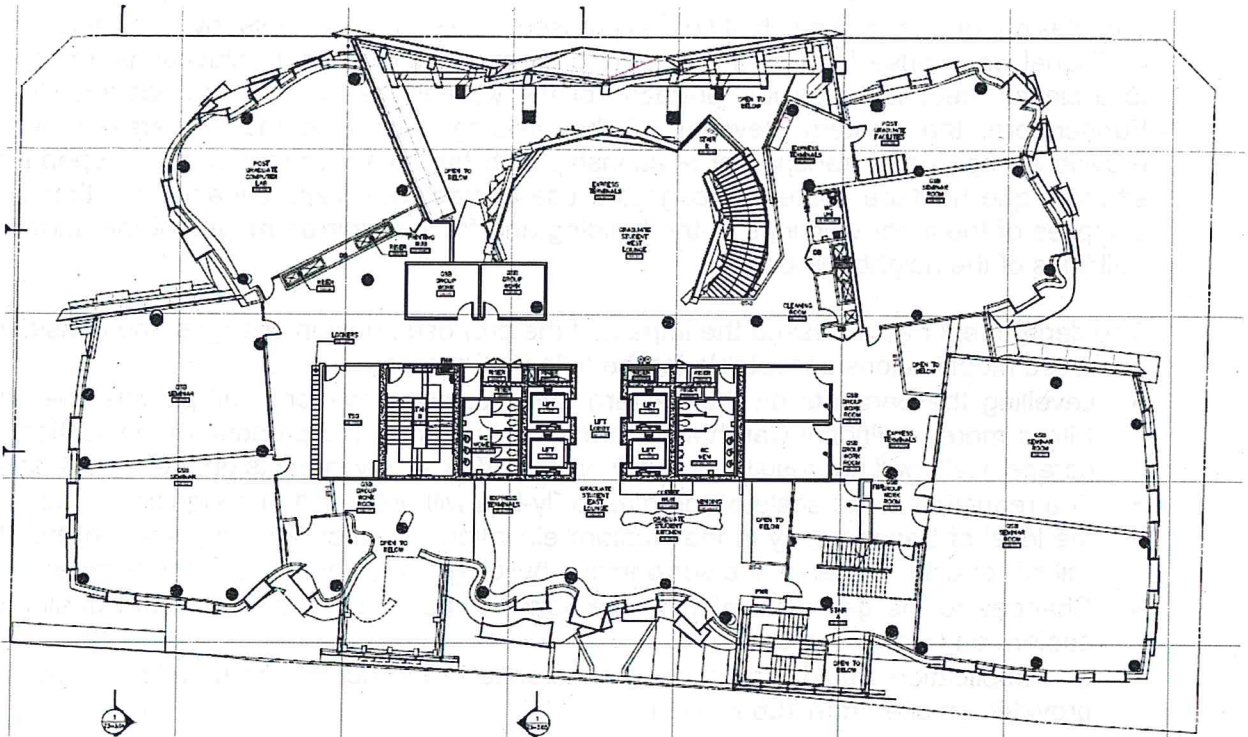


Figure 5: Typical Approved Floor Plan

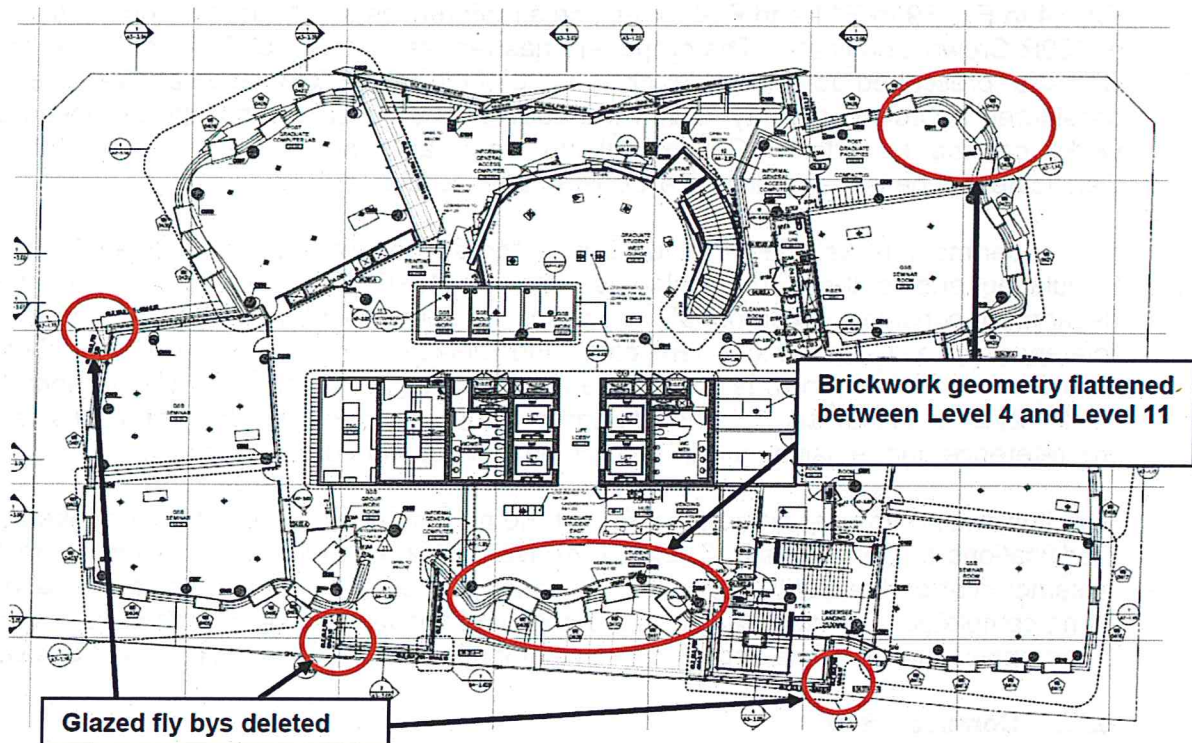


Figure 6: Typical Modifications to Building Floor Plate

The intent of Gehry and Partners original design was to create a playful building which responds to the site's context and the functional requirements of the business school. A key aspect of the functional requirements of the building was the need to provide large spaces for collaborative group work, combined with smaller spaces for individual work. In addition, the business school sought to create a building which represented the school's desire to communicate to and integrate with the local community.

The design of the original building expressed these requirements by providing a more traditional warehouse form on the corners of northern and southern elevations, transitioning to a playful, deconstructed interpretation of the warehouse form on the eastern elevation. Furthermore, the western elevation of the building expressed the University's desire to provide an open and transparent relationship with the local community and respond to the site's unique heritage context through the use of fractured glass curtain walls that provide glimpses of the inner workings of the building and fracture mirror images of the surrounding buildings of the neighbourhood.

The department has assessed the impact of the proposed design changes and considers the proposed modifications acceptable for the following reasons:

- Levelling the parapets on the eastern and western elevations will provide the building with a more traditional warehouse form. Furthermore, the proposed modification to the parapet walls will not result in any adverse wind or safety impacts on the level 8 terraces.
- The reduction in the scale of the glazed fly-bys will not result in a significant reduction in the level of transparency in the western elevation. Furthermore, the scale of the fly-bys will still enable images of the surrounding buildings to be mirrored on the façade.
- Changes to the geometry of the brickwork will not reduce the sculptural quality of the eastern and western elevations.
- The application would result in a net increase in the number of bicycle parking spaces provided on site (from 166 to 179).

5.2 Modification of Conditions

The proponent has requested the re-wording of conditions A5, B1 to B12, B14, B16 to B29, E2, E4 to E7, E9 to E11 and E14 to replace all references to a "Construction Certificate" with a "109R Crown Certificate." The proponent has requested this modification on the basis that UTS is a "prescribed person" under clause 226 of the EP&A Regulation and can therefore be considered a Crown authority. Given the above, UTS considers that the proposed building works can be considered Crown building work, and therefore a section 109R Crown Certificate can be issued in lieu of a Construction Certificate.

The department is satisfied that UTS is a "prescribed person" as defined in the EP&A Regulation and is therefore eligible to obtain a 109R Crown Certificate. As such the department considers it appropriate to reword the above mentioned conditions to remove all references to a "Construction Certificate" and replace them with "109R Crown Certificate". Furthermore, as the Crown is not required to obtain a Construction Certificate under section 109M (2)(d) of the EP&A Act, the department supports modifying the conditions to remove this reference and replacing it with "prior to final occupation of the building".

Notwithstanding, the department notes that the proponent also seeks to undertake additional modifications to Conditions B16, B20, B26, B27 and C12 which will alter the setback of the basement car park security gate, alter the timing of the public domain and remediation works being completed, provide flexibility in the design of the wind mitigation measures, and correct typographical errors. The appropriateness of these modifications is discussed below.

5.2.2 Condition B16

The condition in its current form is as follows:

B16 SECURITY GATES

Details demonstrating that all car park security gates are set back at least 6 metres from the property boundary are to be provided to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

The proponent seeks to delete the condition and replace it with the following:

B16 SECURITY GATES

*Details demonstrating that all car park security gates are set back at least **3.7 metres** from the property boundary are to be provided to the satisfaction of the Certifying Authority prior to the issue of the relevant Section 109R Crown Certificate.*

The department notes that the Council raised concern with reducing the setback of the security gate to 3.7 m due to the potential for it to result in queuing along Ultimo Road.

In response the proponent advised that the security door will be open during business hours to mitigate the impact of queuing. In addition, the roller door will automatically open when triggered via the swipe station for after hours use.

The department has reviewed the revised Traffic Impact Assessment and the additional information submitted by the proponent, and considers that due to the limited number of car parking spaces provided on site (21 spaces), the potential for queuing along Ultimo Road in peak hours is would be minimal. Notwithstanding, In order to ensure that the potential impacts of queuing are managed, the department recommends the modification of Condition B16 to require the proponent to ensure the security gate remains open between 7:30 am and 7:30 pm Monday to Friday, and between 8:30 am and 4 pm on Saturdays.

5.2.3 Condition B20

The current condition requires a final public domain plan to be submitted to Certifying Authority prior to the issue of the first Construction Certificate. The plan must include the integration and links with the UPN, location of street trees, lighting poles, CCTV, and specification for all fixed and movable furniture. The proposed modification seeks defer the submission of the public domain plan to the second 109R Crown Certificate. This change has been requested on the basis that the design of UPN has not been finalised by the Sydney Harbour Foreshore Authority (SHFA) and therefore it is not possible to finalise the design of the UPN integration works (the UPN pedestrian link).

The Council advised that it supports the proposed staging of the public domain works, and advised the proponent should continue to liaise with council over the public domain design.

The department considers deferring the UPN integration works to the second 109R Crown Certificate acceptable so as not to hold up construction of the building until the UPN is designed and approved. However, the department considers that the design of all other public domain works not reliant on the final design of the UPN should be completed prior to the issue of the first 109R Crown Certificate. These include the following works:

- street trees along Mary Ann Street and Ultimo Road
- café furniture along Mary Ann Street
- lighting poles and CCTV along Ominbus Lane.

In this regard, the department recommends the deletion of B20(1) and the insertion of Condition B20A as follows:

"B20A ULTIMO PEDESTRIAN NETWORK INTEGRATION WORKS

Prior to the issue of the relevant 109R Crown Certificate, the proponent shall update the Public Domain Plan to incorporate the works required to integrate the site with the Ultimo Pedestrian Network in consultation with the Council's Public Domain Section and the Sydney Harbour Foreshore Authority, and to the satisfaction of the Certifying Authority."

5.2.4 Condition B26

The condition in its current form is as follows:

B26 WIND MITIGATION MEASURES

Wind mitigation measures for the outdoor seating area on the first floor of the building shall be provided in accordance with the recommendations of the Pedestrian Wind Environment Study prepared by Windtech and dated 9 February 2011. Details demonstrating compliance with the above must be submitted to the satisfaction of the Certifying Authority, prior to the issue of the first Construction Certificate for above ground works.

The proponent seeks to delete the condition and replace it with the following:

B26 WIND MITIGATION MEASURES

*Wind mitigation measures for the outdoor seating area on the UPN level of the building shall be **reviewed** in accordance with the recommendations of the Pedestrian Wind Environment Study prepared by Windtech and dated 9 February 2011. Details demonstrating **that the issues have been addressed** must be submitted to the satisfaction of the Certifying Authority, prior to the issue of **relevant Section 109R Crown Certificate for these** ground works.*

The proponent has requested the modification of Condition B26 as it is concerned that installation of the wind mitigation measures outlined in the Pedestrian Wind Environment Study may need to be modified once the designs for the UPN and the UPN pedestrian link has been finalised.

The department notes that the approved Pedestrian Wind Environment Study recommended the use of impermeable screens and plantings along the northern and southern edges of the UPN link to mitigate the wind impacts of the project. These mitigation measures will ensure compliance with the relevant comfort criterion provided in the Council's *Urban Development Plan for Ultimo-Pyrmont Precinct 1999*.

The department recognises that the wind modelling undertaken to date may need to be revised to incorporate the final design of the UPN and the associated UPN pedestrian link. In this regard, in order to provide the proponent with a degree of flexibility in the design of the wind mitigation measures, the department recommends modifying Condition B26 to permit the proponent to submit an addendum to the Pedestrian Wind Environment Study to the satisfaction of the Director-General, prior to the UPN pedestrian link and associated outdoor seating area becoming operational.

5.2.5 Condition B27

The condition in its current form is as follows:

B27 FLOOD MITIGATION MEASURES

The finished floor levels of the car park entrance along Ultimo Road, and the ground floor of the building shall be no lower than RL 5.180 and RL 4.670 as per the recommendations of the Flood Risk Assessment prepared by ARUP and dated 17 October 2011. In addition, the final plans must include the installation of a hydraulically operated flood gate to the basement car park. Details demonstrating compliance with the abovementioned requirements must be provided to the satisfaction of the Certifying Authority prior to the issue of the first Construction Certificate.

The proponent seeks to delete the condition and replace it with the following:

The basement car park shall be protected by flooding through the use of flood gates at the car park entry and at the northern stair. The crest of the ramp shall be RL 4.230 with the top of the ramp flood gate no lower than RL 5.470. The floor level of the northern part of the building shall be no lower than RL 5.250 & the floor level of the southern part of the building shall be no lower than RL 5.000.

*In addition, the final plans must include the installation of a hydraulically operated flood gate to the basement car park. Details demonstrating compliance with the abovementioned requirements must be provided to the satisfaction of the Certifying Authority prior to the issue of the first **Section 109R Crown Certificate**.*

The Flood Risk Assessment dated 17 October 2011, recommended flood mitigation measures to ensure adequate flood protection is provided. This included setting a flood planning level (FPL) of RL 5.170 at second floor level (previously ground level), and RL 5.180 at the crest of the car park entrance ramp. The department considers the revised plans comply with the RLs specified in the Flood Risk Assessment, as the finished floor level of the second floor is RL 5.250, the crest of the basement car park ramp is RL 4.230, and the flood gate at the car park entrance achieves a level of RL 5.470 (see **Figures 7 and 8**).

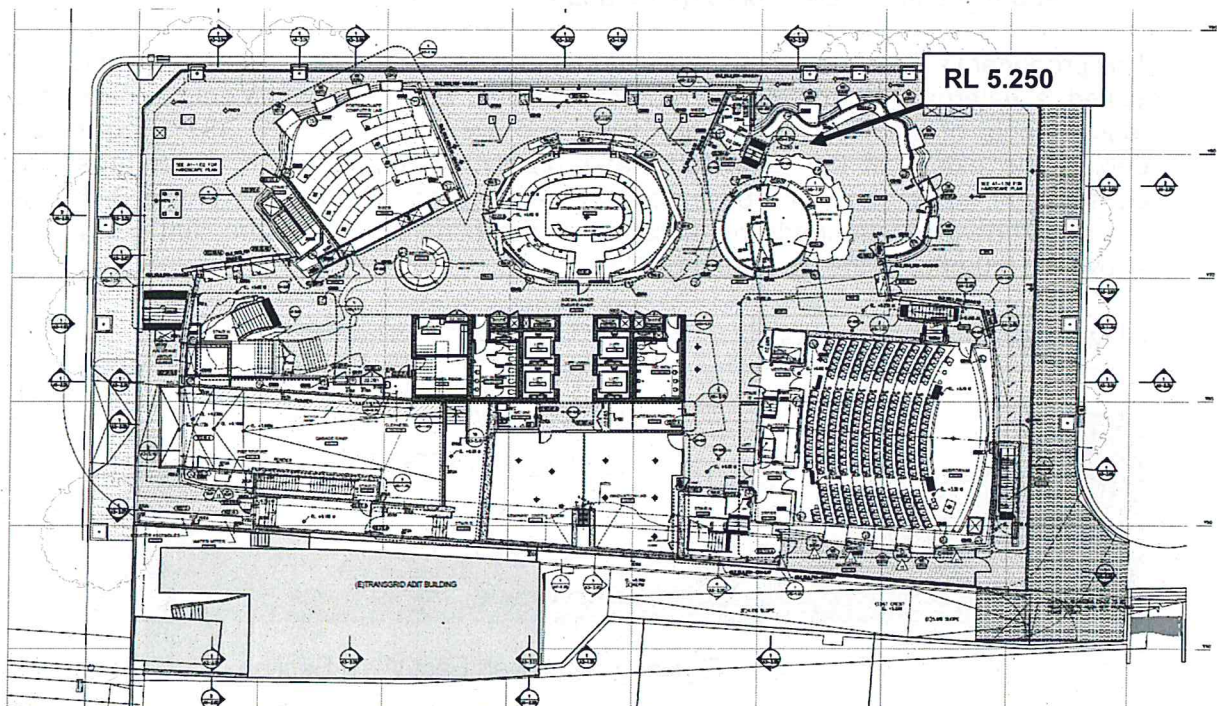


Figure 7: Level 2 Finished Floor Level

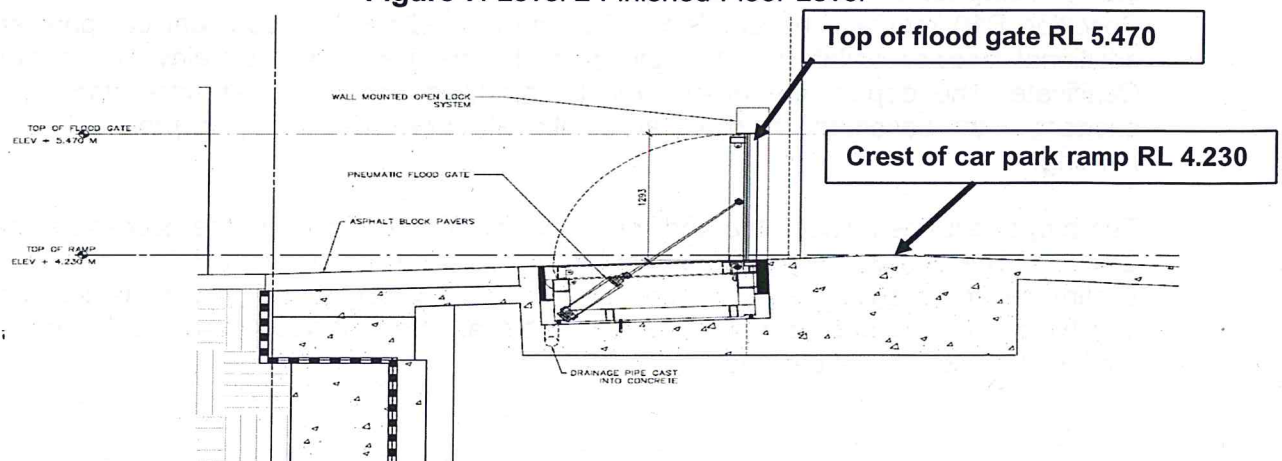


Figure 8: Car Park Crest and Flood Gate Details

The department notes that due to a typographical error, Condition B27 is inconsistent with the recommendations of the Flood Risk Assessment. Accordingly, re-wording the condition to reflect the requirements of the Flood Risk Assessment is supported.

5.2.6 Condition C12

The condition in its current form is as follows:

C12 SITE REMEDIATION

Following the completion of remediation works covered under development approval D/2011/882, and prior to the commencement of works, a Section B Site Audit Statement, prepared by the NSW EPA accredited site auditor, must be submitted to the Director-General and the Council.

The proponent seeks to delete the condition and replace it with the following:

C12 SITE REMEDIATION

*Following the completion of remediation works covered under development approval D/2011/882, and prior to the commencement of the **relevant works**, a Section B Site Audit Statement, prepared by the NSW EPA accredited site auditor, must be submitted to the Director-General and the Council.*

This proponent's Site Auditor has advised that in order for a Site Audit Statement (SAS) to be issued, a waterproofing membrane must be installed within the basement car park as per the requirements of the Remedial Action Plan approved under D/2011/882. **Figure 9** below depicts the extent of the approved water proofing membrane. In order to ensure that construction works above the basement car park are not commenced until a SAS is issued, the department recommends modification of the condition to ensure that no works occur above RL 5.0 prior to the issue of a SAS.

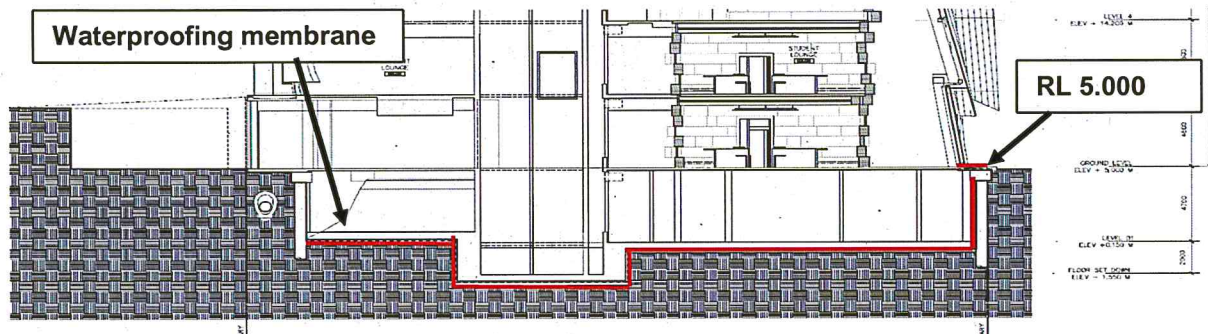


Figure 9: Approved East-West Section

5.3 Compliance with Condition B10

Condition B10 requires the provision of 9 showers within the basement car park and an additional shower within the building prior to the issue of the relevant Construction Certificate. The department notes that the modified basement car park plan depicts 9 showers in the basement; however an additional shower has not been provided within the building.

The proponent has advised the additional shower will be located in the accessible toilet on Level 6. The department recommends the modification of Condition B10 to ensure details confirming compliance with this condition will to be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Section 109 Crown Certificate, as per the intent of the original condition.

6. CONCLUSION

The department has considered the proposed modifications to the project approval and the key issues associated with these modifications. The department is satisfied that the proposed design modifications are consistent with the intent of the original design of the building, and will not create any adverse amenity impacts. In addition, the amendments to the conditions of approval mainly relate to administrative changes required to permit the issue of a Section 109R Crown Certificate in lieu of a Construction Certificate. All residual changes are minor in nature and are necessary to improve construction.

It is therefore recommended that the modification application be approved, subject to conditions, as outlined in the recommended Instrument of Modification.7.

6. RECOMMENDATION

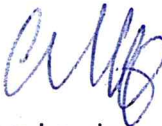
It is recommended that the Director, Metropolitan and Regional Projects North:

- 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 (**Tag A**).

 24/8/12.

Planner

Metropolitan and Regional Projects North

 24/8/12

Team Leader

Metropolitan and Regional Projects North



Director

24/8/12
Metropolitan and Regional Projects North

APPENDIX A MODIFICATION REQUEST

See the Department's website at:

<http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

No submissions in the nature of objections were received.

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
