



MODIFICATION REQUEST:

***Dr Chau Chak Wing Building, University
of Technology Sydney, 14-28 Ultimo
Road, Ultimo
MP09_0153 MOD 4***

Modifications to condition B4 Mechanical
Ventilation and condition E9 Installation of
Rainwater Tanks

Secretary's Environmental Assessment Report
Section 75W of the *Environmental Planning and
Assessment Act 1979*

February 2015

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1. BACKGROUND

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) (see **Figure 1** for the location of the approved 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.

Construction of the approved building has largely been completed, with surrounding public domain works currently being finalised (see **Figures 2 and 3**).

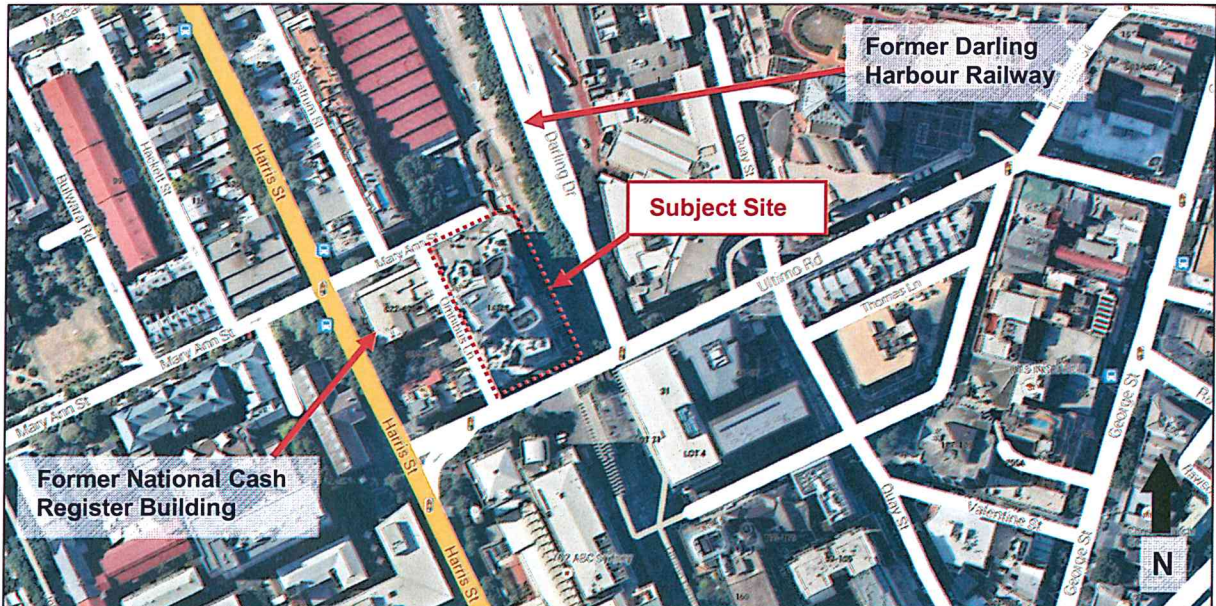


Figure 1: Project Location

Previous Modifications

On 24 August 2012, the Director, Metropolitan and Regional Projects North approved MP09_0153 MOD 1 permitting:

- minor internal and external design modifications; and
- modifications to the conditions of approval to alter the timing for the satisfaction of a number of conditions, and permitting the proponent to obtain a 109R Crown Certificate in lieu of a Construction Certificate.

On 12 September 2012, the Director, Metropolitan and Regional Projects North approved MP09_0153 MOD 2 permitting the deletion of condition B25, which required a report to be submitted to the Certifying Authority, confirming the building's ability to withstand intermittent surcharge loads from passing rail traffic.

On 24 April 2013, the Director, Metropolitan and Regional Projects North approved MP09_0153 MOD 3 permitting:

- amendments to the ground level pavement material from asphalt to cast in-situ concrete;
- a redesign of the stormwater drainage system;
- a reduction in trees along the northern end of Omnibus Lane from four to three;
- a reduction to the number of basement bicycle parking spaces from 171 to 160;
- an increase to the number of bicycle parking spaces on Mary Ann Street from 16 to 18;
- the deletion of the tri-generation plant;

- an addition of three air cooled chillers on level 13; and
- an increase in the sprinkler tank height by 600 mm at the roof level.



Figure 2: North Western View from Ultimo Pedestrian Network



Figure 3: South Eastern View from Mary Ann Street

2. PROPOSED MODIFICATION

The University of Technology, Sydney (UTS) (the proponent) seeks approval for further minor amendments to the development as follows:

- prospective approval of as-built sprinkler tank at 59.6 m (+300 mm above the originally approved level);
- modification of condition *B4 Mechanical Ventilation* to delete the requirement for the kitchen exhaust discharge point to be a minimum three metres above the roof; and
- modification to condition *E9 Installation of Rainwater Tanks* to delete the requirement for a permit to be issued by Sydney Water following installation.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

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. Approved projects are 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 project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend conditions B4 and E9 and modify the approved drawings, the modification will require the Minister's approval.

3.2 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.

3.3 Delegated Authority

The Minister has delegated her functions to determine a modification request under section 75W of the EP&A Act to Directors reporting to the Executive Director, Infrastructure and Industry Assessments, where:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

No submission or objection has been received by Council and no public submissions were received. There has been no political disclosure statement made for this application. Accordingly, the modification application is able to be determined under delegation by the Director, Infrastructure.

4. CONSULTATION AND SUBMISSIONS

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 City of Sydney Council was also notified of the application, however no submission has been received at the time of writing this report.

5. ASSESSMENT

The key assessment issues associated with the proposed modification application relate to the potential built form and visual impacts associated with the amendments to the sprinkler tank, and certification matters relating to the kitchen exhaust discharge point and Sydney Water permit requirement for the rainwater tank installation.

5.1 Built Form and Visual Impacts

The proponent seeks prospective approval to increase the maximum building height of the approved development from 59.3 m to 59.6 m, or more specifically for the as-built height of the sprinkler tank 300 mm above the approved height under MOD 3. The increased height was discovered following a post construction survey of works completed, where it was found the finished height of the sprinkler tank was 59.6 m.

The original approved building height, inclusive of the sprinkler tank on the roof level, was 58.7 m. Under a previous modification application (MP09_0153 MOD 3), approval was granted to increase the height to 59.3 m to accommodate the addition of structural piers for support.

Figures 4 and 5 detail the central location of the sprinkler tank on the roof level of the approved building. The sprinkler tank is setback a minimum of eight metres from the building's eastern façade (approximate setback distances detailed in **Figure 4**).

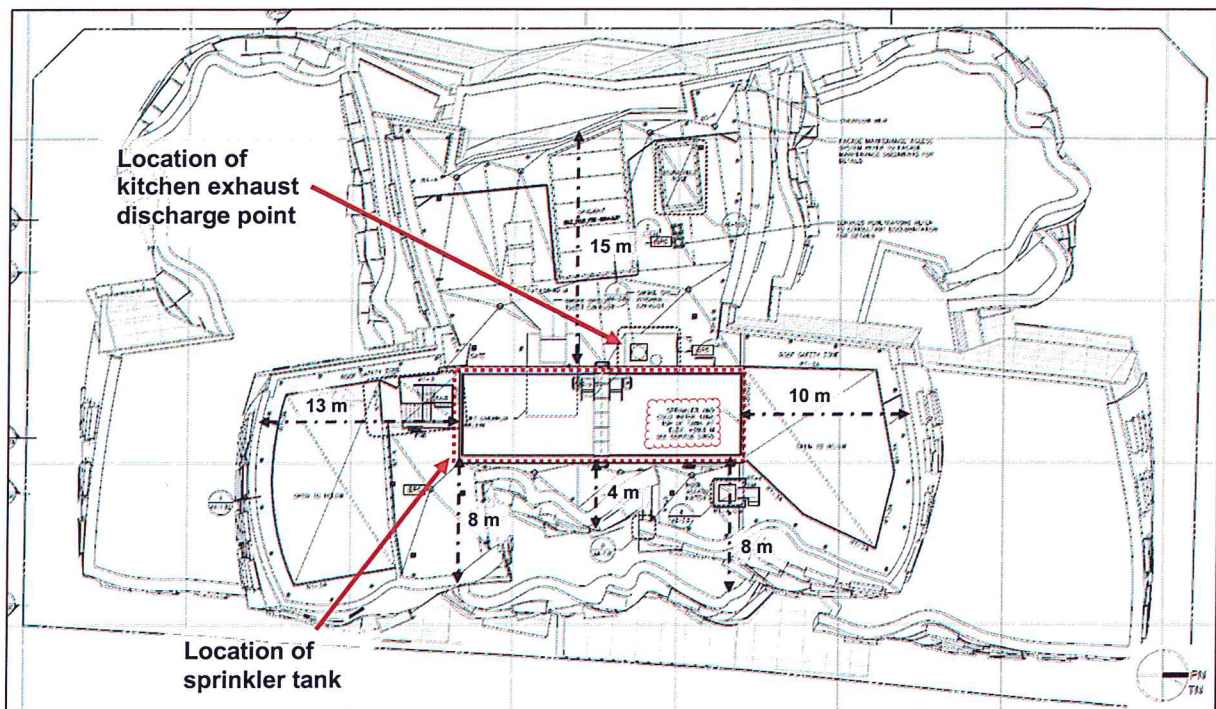


Figure 4: Roof Plan

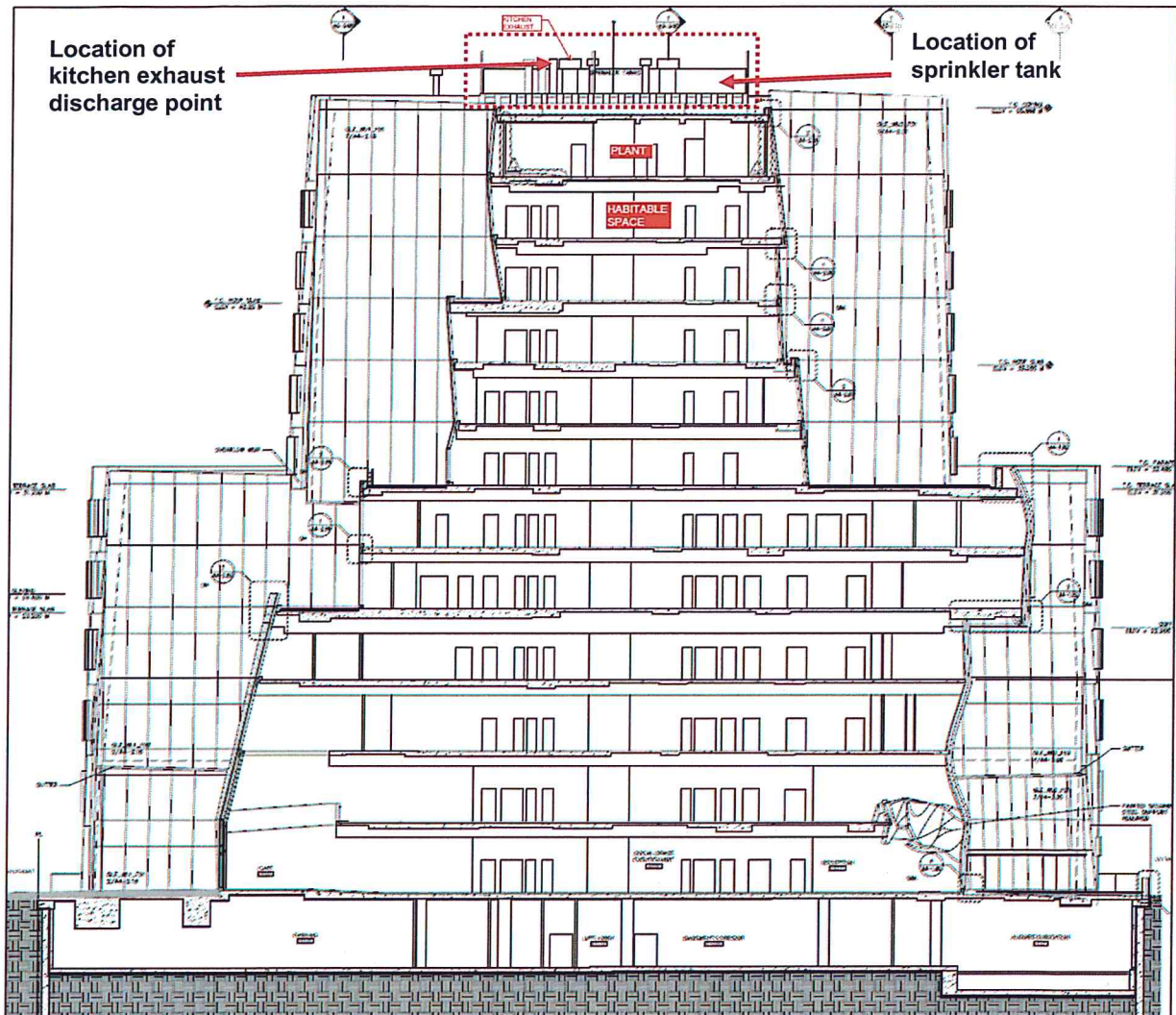


Figure 5: Eastern Building Section

The centralised location of the sprinkler tank combined with its setback from the building's façades ensures that the structure is not visible from the surrounding public domain. This is demonstrated in **Figures 2 and 3**, showing that the rooftop plant and equipment (i.e. the sprinkler tank) are not visible from the surrounding public domain. In this respect, it can be concluded that the additional 300 mm has a negligible visual impact and no effect on the bulk and scale of the approved building.

The Department notes that the building's approved height already exceeds the 33 m maximum building height stipulated in Sydney Local Environmental Plan 2012 (SLEP) (inclusive of the sprinkler tank). While the provisions of Part 3A of the EP&A Act continue to apply for the site, and therefore prevail over Sydney LEP 2012, the Department is of the opinion that the additional 300 mm of height is marginal and does not give rise to any additional visual or built form impacts.

5.2 Certification Matters

The proponent seeks to amend conditions B4 and E9 to read as follows:

Original Wording:

B4 MECHANICAL VENTILATION

The air discharge point of the mechanical ventilation associated with the operation of the ground floor café shall be 3 m above the roof in accordance with the requirements of section 3.7.3 of AS1668.2 1991. Detailed plans demonstrating compliance with the

requirements of AS1668.2 1991 shall be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Proposed Wording:

B4 MECHANICAL VENTILATION

The air discharge point of the mechanical ventilation associated with the operation of the ground floor café shall be designed to comply with AS1668.2 (1991) clause 3.7.1. Detailed plans demonstrating compliance shall be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Original Wording:

E9 INSTALLATION OF RAINWATER TANKS

All rainwater tanks shall be installed by a licensed plumber in accordance with AS/NZS 3500:2003 and the Council's specifications. In addition, the Proponent should obtain a permit from Sydney Water as per the NSW Code of Practice – Plumbing and Drainage 2006 (as amended). Evidence of compliance with the abovementioned requirements shall be submitted to the Certifying Authority prior to the issue of an Occupation Certificate.

Proposed Wording:

E9 INSTALLATION OF RAINWATER TANKS

All rainwater tanks shall be installed and certified in accordance with AS/NZS 3500:2003 and the requirements of the National Construction Code, Vol.3. Certification details demonstrating compliance with the above shall be provided to the NSW Department of Fair Trading, evidence of which, including an inspection certificate for the works issued by NSW Department of Fair Trading, shall be submitted to the Certifying Authority prior to the issue of an Occupation Certificate.

The proponent proposes amendments to condition B4 as they consider the intent of AS1668.2 (1991) clause 3.7.3 (not causing a danger or nuisance to occupants of the building, neighbour building or general public) is satisfied as the discharge point of the kitchen exhaust is located on the roof of the approved building (see **Figures 4 and 5**), which is not accessible to the general public and would therefore not cause danger or nuisance to the public.

The Department is satisfied that the location of the kitchen exhaust discharge point would not give rise to danger or nuisance to occupants of the building, neighbour building or general public and considers the proposed amended condition wording to be satisfactory.

The proponent seeks to amend condition E9 to reflect changed regulatory requirements for rainwater tank installation and delete reference to the requirement for the proponent to obtain a permit from Sydney Water confirming its correct installation. Advice submitted by the proponent details that certification for the installation of rainwater tanks is now managed by the Department of Fair Trading, and not Sydney Water. Furthermore, the relevant installation requirements are contained in the National Construction Code Volume 3.

The proposed amendments to condition E9 are considered acceptable by the Department given that the certification requirements for the installation of rainwater tanks have changed since the application was originally approved.

6. CONCLUSION

The Department has reviewed the modification request and consulted with Council. All the relevant environmental issues associated with the modification have been assessed.

The proposed prospective approval to increase the maximum building plant height by 300 mm will have a negligible visual impact on the surrounding public domain and does not affect the approved building's bulk and scale. The proposed amendments to conditions B4 and E9 are considered acceptable and will still ensure that the development is completed in accordance with the relevant Australian Standards and codes.

The Department is of the opinion that the modification of the proposal is in the public interest as it would not give rise to additional bulk and scale impacts or create adverse environmental impacts. Consequently, the Department recommends that the modification application be approved.

7. RECOMMENDATION

It is recommended that the Director, Infrastructure:

- note the information provided in this report;
- approve the modification request; and
- sign the attached modifying instrument (**Appendix B**).

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