



Planning

**SECTION 75W MODIFICATION
APPLICATION
DARLING WALK, DARLING HARBOUR**

MP 09_0156 (MOD 1)

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

December 2010



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1. INTRODUCTION

This is a report on an application seeking to modify the project application (MP 09_0156) for the commercial tenancy fit-out of Darling Walk, Darling Harbour.

The Darling Walk site is situated west of Harbour Street, south of the Western Distributor fly-over, north of the Chinese Garden and east of Tumbalong Park (**Figure 1**). The site is located within the Darling Harbour precinct and is located within the City of Sydney Local Government Area (LGA). The site comprises of an area of approximately 32,900m².



Figure 1 – Location of the Darling Walk site

On 9 July 2008, the Minister for Planning approved a concept plan (MP 06_0054) for the redevelopment of Darling Walk at Darling Harbour. The approval provided the following parameters for redevelopment of Darling Walk:

- Land uses between 64,000m² and 68,000m² gross floor area (GFA) of commercial floor space including up to 5,000m² GFA of retail floor space (retail and associated uses) and up to 1,000m² GFA for cultural, recreational and entertainment uses;
- Building footprint, height, bulk and scale;
- A maximum of 200 car parking spaces to service the commercial building and a 600 space public car park facility;

- Public domain improvements; and
- Demolition works.

On 9 June 2010, the Deputy Director-General, Development Assessment and Systems Performance, as delegate for the Minister for Planning, approved the project application (MP 09_0156) for the commercial fit-out of the northern and southern buildings at Darling Park including mail room, services, lobby, commercial kitchens, office fit-outs in both the northern and southern buildings and satellite dishes on the roof.

2. PROPOSED MODIFICATION

On 23 November 2010, JBA Urban Planning Consultants Pty Ltd on behalf of its client, the Commonwealth Bank of Australia (CBA), submitted a modification application under section 75W of the EP&A Act relating to the fit-out plans for Basement Level 2 of the development that were inadvertently omitted from the original project application.

Approval is sought to modify the plan schedule in the approval to include the fit-out plan of Basement Level 2 (drawing number 08013-DW-DA-B2 – level B2). The maximum GFA approved and building envelope will remain unchanged.

3. STATUTORY CONTEXT

3.1 MODIFICATION OF A MINISTER'S APPROVAL

Section 75W(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides that a proponent may request the Minister to modify the approval of a project. The Minister's approval is not required if the project, as modified, will be consistent with the original approval. As the application seeks to make changes the plan schedule from which a drawing was omitted in error, the modification request requires approval.

3.2 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRs)

Section 75W(3) of the EP&A Act provides the Director General with scope to issue environmental assessment requirements (DGRs) that must be addressed with respect to the proposed modification. The Department considers it unnecessary to re-issue the DGRs as it considers the proposed modifications will not have any additional impact on the environmental issues considered in the original proposal.

3.3 CONSULTATION AND EXHIBITION

While section 75W of the EP&A Act does not require a modification application to be publicly exhibited, the application was placed on the Department's website in accordance with section 75X(2)(f) of the EP&A Act and clause 8G of the *Environmental Planning and Assessment Regulation 2000*.

3.4 PERMISSIBILITY

The site is unzoned under the Darling Harbour Development Plan No.1 (DHDP). Parks, gardens and public utility undertakings are permissible with consent under Schedule 1 of the DHDP.

The proposal is consistent with the objectives of the DHDP as it encourages the development of tourist, educational, recreational, entertainment, cultural and commercial facilities.

4. CONSIDERATION OF PROPOSED MODIFICATIONS

The proposed modification seeks to amend the drawing references in Condition A2 of schedule 2 and insert a drawing reference to the Basement Level 2, which was omitted from the original application in error. The proposed amendment has no additional environmental impact beyond those issues considered and assessed in the approval of the original project.

5. CONCLUSION

The Department considers that the modification request is acceptable and appropriate given it is of a minor nature and will not result in any additional impacts other than those assessed in the original application. As such, the modification is supported.

6. DELEGATION

Under the Instrument of Delegation dated 25 January 2010, the Minister delegated his functions under section 75W of the EP&A Act to the Director, Government Land and Social Projects, where there are fewer than 10 public submissions in the nature of objections in respect of the modification request. As there were no public submissions, the modification application can be determined under delegation.

7. RECOMMENDATION

It is recommended that the A/Director, as delegate for the Minister for Planning:

- (a) **Consider** the findings and recommendations of this report; and
- (b) **Approve** the modification, under section 75W of the *Environmental Planning and Assessment Act 1979*; and
- (c) **Sign** the attached Instrument of Modification Approval (**TAG A**).

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