



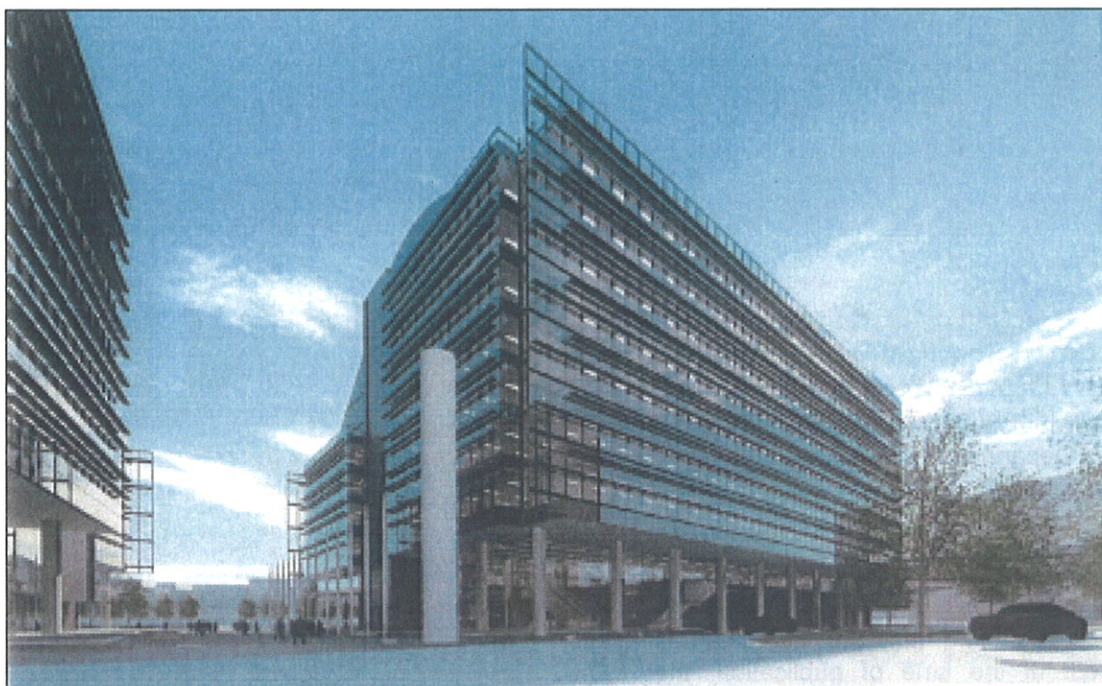
Planning

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

**MP 09\_0156 (MOD 3)**

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

February 2011



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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 32,900m<sup>2</sup>.



**Figure 1 – Location of the Darling Walk site**

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 a mail room, services, lobby, commercial kitchens, office fit-outs in both the northern and southern buildings and satellite dishes on the roof.

On 10 December 2010, the A/Director, Government Land and Social Projects, as delegate for the Minister of Planning, approved a modification application (MP 09\_0156 MOD 1) for the inclusion of the Basement Level 2 plan (08013-DW-DA-B2) that was inadvertently omitted by the proponent from the original project application.

On 17 January 2011, the A/Director, Government Land and Social Projects, as delegate for the Minister of Planning, approved a modification application (MP 09\_0156 MOD 2) for the installation of identification signage on the buildings.

## **2. PROPOSED MODIFICATION**

On 13 January 2011, 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 Environmental Planning and Assessment Act 1979 (EP&A Act) for the fit-out of part of the ground floor of the south building for use by the CBA and minor modifications to the base building and Harbour Street elevation.

Approval is sought for the fit-out of the south-eastern corner of the south building for a commercial tenancy. The area was not included in the original fit-out application as it was originally designated for use as commercial/retail space under the original project application. The fit-out will include: workstations, breakout space, storage, meeting rooms, storage for mechanical plant, kitchens and staff amenities.

The modifications to the base building will include: changes to the entry to the ground floor tenancy, provision of an internal staircase to Level 1 and the installation of privacy blades on the Harbour Street frontage.

The proposed modifications will not seek to increase the GFA, form or operation of the building as approved under the original project application.

Plans provided by JBA Planning regarding the privacy blades were not considered by the Department to adequately illustrate the impact of the blades in Harbour Street and the potential impact on pedestrians and motorists. These additional plans were provided on 4 February 2011 and subsequently deemed adequate by the Department.

## **3. STATUTORY CONTEXT**

### **3.1 MODIFICATION OF A MINISTER'S APPROVAL**

Section 75W(2) of the 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 to the project application, 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 Department requested additional plans regarding the privacy blades on 18 January 2011 and a site visit was carried on 21 February 2011.

The proposed modifications to the approved project relating to the internal fit out elements allow for the building to be used for its designed purpose. The changes to the entry point relate to an internal entry to allow passage between the tenancy and the lobby that had not been included in the original plan. The internal staircase will allow for movement between the two floors of the tenancy and improve the internal connectivity of the fit-out. The proposed internal amendments have no additional environmental impact beyond the approved project.

The privacy blades that are proposed to be installed along the Harbour Street frontage consist of aluminium powder-coated structures in black and silver that vary in width from 735mm to 1470mm with a height of 4700mm (approx) as illustrated in Figures 2 and 3. The proponent has confirmed that the 3500mm width of the Harbour Street footpath will be maintained at all times. Following the site visit the Department is satisfied that the proposed privacy blades will not have any significant environmental impact on passing pedestrians or motorists as the do not protrude a significant amount into the footpath and are located a fair distance from the road.

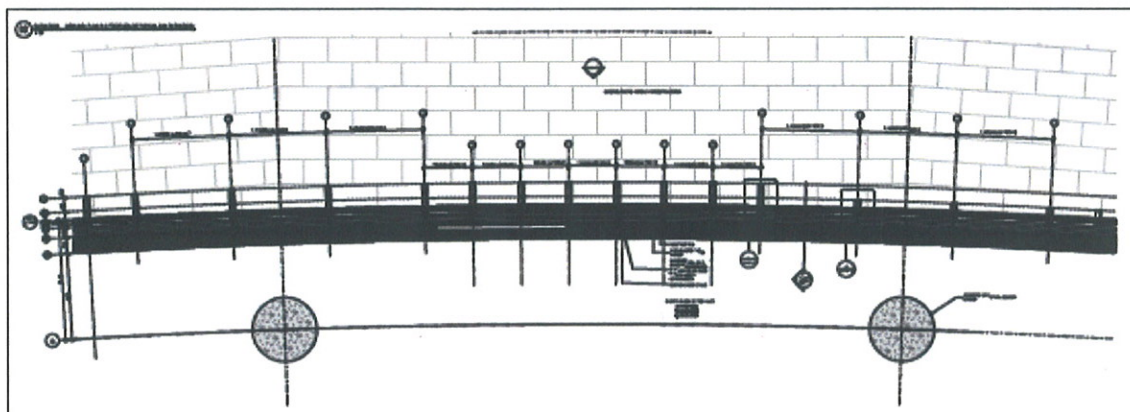


Figure 2 – Privacy Blades – Protrusions into Harbour Street Footpath



Figure 3 – Photomontage of Privacy Blades on Harbour Street Frontage

## 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, Metropolitan & Regional Projects North, 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**).

Prepared by:

  
Amy Ravitz-Williams 28.02.11  
**Planning Officer**  
**Metropolitan & Regional Projects North**

Prepared by:

 28/2/11  
Cameron Sargent  
**Team Leader**  
**Metropolitan & Regional Projects North**

  
Daniel Cavallo 28/2/11  
**A/Director**  
**Metropolitan & Regional Projects North**