



***MODIFICATION REQUEST:
Mixed Use Development
44–46 Walker Street, Rhodes
MP10_0105 MOD 2***



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

January 2013

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1. BACKGROUND

This report is an assessment of a request to modify Project Approval MP10_0105 involving a mixed use development at 44–46 Walker Street, Rhodes in the City of Canada Bay local government area, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The project application was granted approval by the Planning Assessment Commission (PAC) under delegation of the Minister for Planning and Infrastructure (the Minister) on 21 April 2011, under Part 3A of the EP&A Act. Project approval was granted for:

- 735 residential dwellings contained within five buildings ranging in height from six to 25 storeys,
- retail tenancies totalling 1,050m² within the lower levels of buildings A, D and E,
- basement car parking over three levels comprising 773 spaces, and
- provision of external communal public open space adjacent to buildings C and D.

Modification 1 to MP10_0105 was approved on 26 September 2012 for amendments involving:

- minor amendments to the approved architectural form of buildings A, B, C and D,
- increasing retail tenancies from 1,050m² to 1,348m²,
- providing for adaptable car parking spaces to have a minimum width of 3600mm (x5400mm) and permitting sharing of space with adjacent walkways and other adaptable carparking spaces, and
- increasing retail car parking spaces from 8 to 11.

2. THE SITE

The subject site is located within the Rhodes West Precinct and is identified as Site 2A and Site 3A within Precinct B within the City of Canada Bay, Rhodes West Development Control Plan (DCP). The site is bounded by Walker Street to the east, Shoreline Avenue and Site 3B (an adjoining residential development site) to the west, Trimbol Avenue to the north and Gauthorpe Street to the south. Mixed use light industrial and residential development as part of Precinct D is located further south. The area has undergone significant change from being an industrial area to a mixed use residential, commercial and light industrial precinct. **Figure 1** shows the location of sites 2A and 3A within Precinct B.

Figure 1: Site Location – Walker Street, Rhodes (source: proponent)

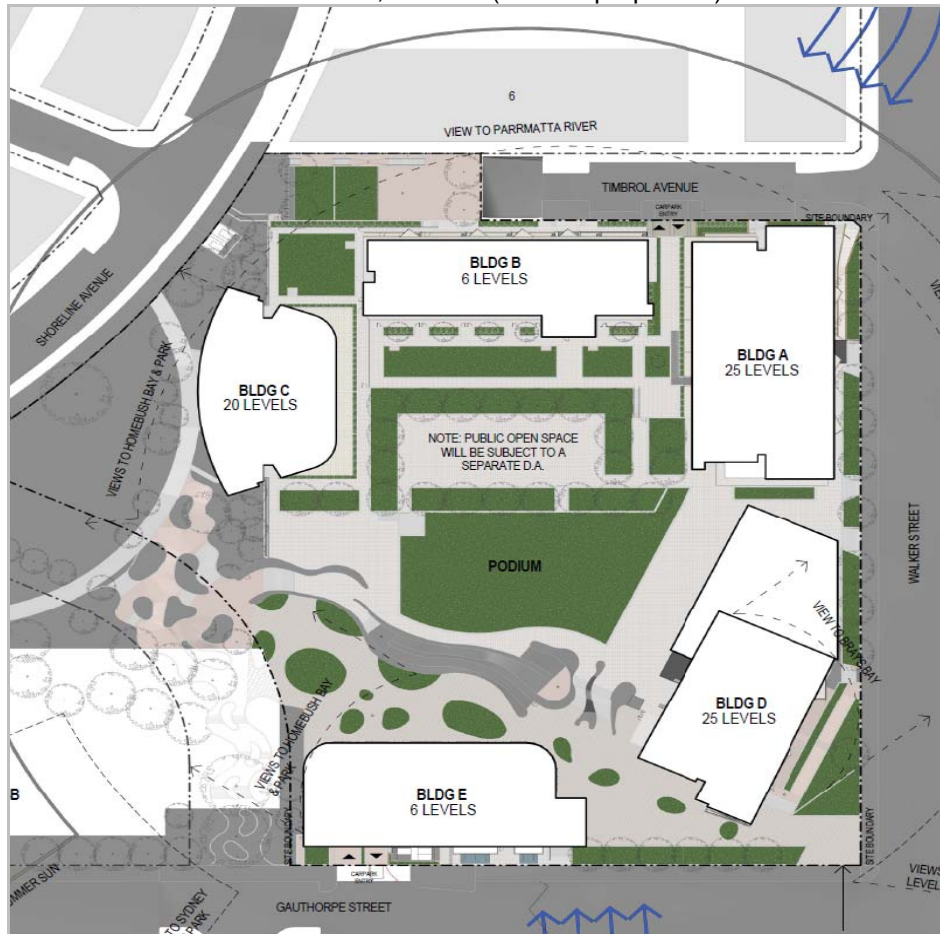


2.1 Site Layout

Sites 2A and 3A will consist of five residential buildings (referred to as Buildings A to E), consisting of a total 735 units with communal open space located upon a podium extending across the majority of the site. Beneath the podium level, three basement car parking levels are proposed containing 783 spaces, with vehicular access provided from both Trimbol Avenue and Gauthorpe Street. **Figure 2** shows the layout of Buildings A to E. The current approved layout of each building is detailed below:

- **Building A:** 25 storeys, located in the north-eastern corner of the site. The building will contain 252 residential units, three home offices, a retail tenancy, and a communal room for the use of residents on the ground floor.
- **Building B:** Six storeys, located adjacent to the northern boundary of the site. The building will contain 65 residential units and common open space at podium level to the southern elevation of the building.
- **Building C:** 20 storeys, located to the north-western boundary of the site. The building will contain 160 residential units and common open space above the podium level to the northern elevation of the building.
- **Building D:** 25 storeys, located to the south-eastern corner of the site. The building will contain 208 residential units with several retail tenancies located at podium level.
- **Building E:** Six storeys, located adjacent to the southern boundary of the site. The building will contain 50 residential units. Retail tenancies are also proposed fronting Gauthorpe Street.

Figure 2: Sites 2A and 3A – Walker Street, Rhodes (source: proponent)



3. PROPOSED MODIFICATION

3.1 Modification Description

On 9 November 2012, Architectus Group Pty Ltd on behalf of Billbergia Developments Pty Ltd (the proponent) submitted a section 75W modification request to MP10_0105. The proposed modification involves:

- Changing 2 x 3-bed units to 4 x 1-bed units on levels 19-22 in building A (8 x 3-bed units will become 16 x 1-bed units). This will result in an additional 8 units.
- Amendments to the roof outline and balconies at the eastern and western ends of building B.
- Eight extra potentially adaptable car parking spaces will become 12 standard residential spaces and 2 additional residential spaces will be provided. Overall, 6 additional residential spaces are proposed.
- Changing the public accessible toilets on basement level 01 and podium level to Council storerooms (and relocating the accessible toilets).
- Provide for Council vehicle access to the central podium (upper podium).
- Amendments to the approved conditions of approval.

The public open space at podium level will be maintained by Council and it has requested access and storerooms to maintain this open space.

4. STATUTORY CONTEXT

4.1 Modification of the Minister's Approval

Approval of MP10_0105 was granted in accordance with Part 3A under section 75J of the EP&A Act. 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.

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 required if the approval of the project as modified would be consistent with the original approval. As the proposal involves modifications to the external built form and internal reconfigurations, the modifications require approval, and the department is satisfied its within the scope of section 75W.

4.2 Delegated Authority

Under the Instrument of Delegation dated 14 September 2011, the Minister has delegated his functions to determine section 75W modification requests to the Deputy Director-General, Development Assessment & Systems Performance, whereby:

- the relevant local council has not made an objection to the proposal; and
- a political disclosure statement has been made, but only in respect of a previous related application; and
- there are less than 10 public submissions in the nature of objections.

As the proponent made a political donations disclosure under section 147(3) of the EP&A Act in respect to the original project application (MP10_0105), the Deputy Director-General, Development Assessment & Systems Performance can determine the modification request under delegation. The City of Canada Bay Council (the council) has not objected to the proposal and no public submissions were received.

5. CONSULTATION AND SUBMISSIONS

5.1 Exhibition

Under section 75X(2)(f) of the EP&A Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the Environmental Planning and Assessment Regulation 2000, the request for modification was made publicly available on the department's website on 21 November 2012.

City of Canada Bay Council Referral

The modification request was referred to council inviting any issues or requirements to be provided. Council responded via email on 18 December 2012 advising it has no objection or requirements.

6. ASSESSMENT

The department has considered the key issues associated with the modification request, including:

- change in unit mix
- minor building design amendments
- changes to car parking
- provision of publicly accessible toilets, and
- amendments to the conditions of approval.

6.1 Change in Unit Mix

The proponent seeks minor changes to the unit mix due to market demands. Eight x 3-bed units will become 16 x 1-bed units because there is a lack of demand for 3-bed units in the area. The unit mix across the development will still remain substantially the same as that approved (and amended) as shown in Table 1.

Table1: Unit mix approved and proposed

	UNIT MIX			
	1-bed	2-bed	3-bed	TOTAL
MP10_0105 Approved	291	414	30	735
	39.6%	56.3%	4.1%	100%
MP10_0105 MOD1 Approved	290	415	30	735
	39.5%	56.4%	4.1%	100%
MP10_0105 MOD2 Proposed	306	415	22	743*
	41.2%	55.8%	3.0%	100%

***112 of the total 743 units will be adaptable.**

This proposed mix is not contrary to Section 4.3.9 – Diversity of Apartment Types in the Rhodes West DCP which does not dictate a unit breakdown. Control C1 states:

‘To achieve a mix of dwelling sizes, all residential and mixed use development should provide a range of dwelling types including 1, 2 and 3+ bedroom dwellings.’

The mix is considered appropriate, especially considering it is in response to current market demand.

The increase in the total number of units from 735 to 743 requires 1 more adaptable unit to meet the DCP requirement that 15% of all dwellings are to meet the requirement for adaptable housing (Section 4.3.9). Currently 111 adaptable units are provided. Fifteen percent of 743 equates to 112 units, the additional unit will be provided in Building C (as will a corresponding car parking space in the basement).

The change in unit mix will not result in any further south facing units within the development; and the building will still comply with State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65) including the minimum requirements for cross ventilation and solar access.

A minimum 2 hours direct sunlight between the hours of 9am-3pm on 21 June will be achieved for 78.2% of units. SEPP 65 states a minimum of 70% of units should have 3 hours of direct sunlight but that in dense urban areas, 2 hours may be acceptable.

Within the development, 68.5% of units will be naturally cross ventilated, hence it will comply with SEPP 65 which requires a minimum of 60% of units be naturally cross-ventilated.

6.2 Minor Building Design Amendments

6.2.1 Winter garden relocation – building A

It is proposed that the winter gardens to the north-eastern and south-eastern corner units on levels 23-24 be moved from their easterly orientation to the northern and southern elevations. This will mean these winter gardens will align with the winter gardens to the new 1-bed apartments on levels 19-22. This will result in a more visually coherent facade. The current and proposed winter garden location for the corner units is shown in **Figure 3**.

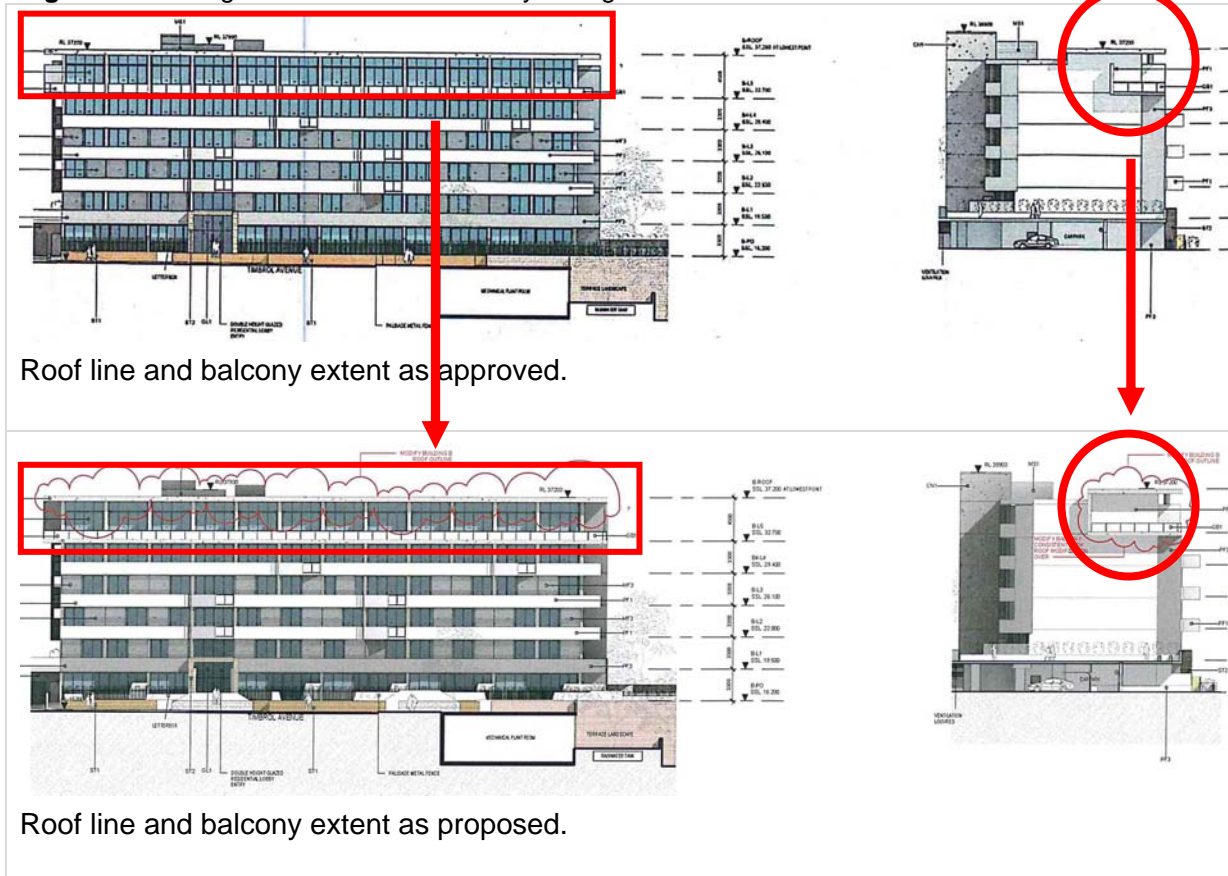
Figure 3: Building A, levels 23 and 24 - relocation of winter gardens



6.2.2 Roof outline and balconies – building B

The roof of building B and balconies including the east end balcony of level 5 will be amended as a result of the position of the crane serving the construction of building A. The amendments are minor and will not alter the height of the building or significantly change the design. **Figure 4** shows the approved and proposed roof line and balconies from the northern and eastern elevations.

Figure 4: Building B – roof line and balcony changes



6.3 Changes to Car Parking

Originally the development had 8 extra car parking spaces. The spaces were afforded extra width so that they could become adaptable car spaces if required. They are now no longer needed as potential adaptable spaces and now it is proposed they become 12 standard residential unit spaces (i.e. 4 extra spaces). In addition, a further 2 residential spaces are proposed.

The 6 additional residential spaces are being provided to accommodate the 8 extra units, although 2 units will not have their own designated car space.

This is considered acceptable under Section 4.3.29 of Rhodes West DCP which states residential provision is a maximum 1 space per unit. It is noted that all adaptable units will have their own designated car space with 1 existing car space to be increased in width to provide a suitable car space for the additional adaptable unit.

The provision of visitor parking will not change. The minor increase in unit numbers does not warrant an increase in visitor parking spaces. The original application proposed 38 visitor spaces in accordance with the minimum requirements of Rhodes West DCP but as the retail

component provided no exclusive tenant parking, it was considered advantageous to allocate 8 spaces to the retail tenancies to ensure their ongoing occupation (which was increased to 11 spaces under MOD1). The approved and proposed car parking breakdown is shown in **Table 2**.

Table 2: Proposed parking provision

Parking Type	Approval	Level & No. of parking spaces			Total parking spaces
		Podium	Basement 01	Basement 02	
Standard unit					
	MP10_0105 (approved)	29	257	338	624
	MOD1 (approved)	29	257	338	624
	MOD2 (proposed)	29	259	341	629
Adaptable unit					
	MP10_0105(approved)	5	54	52	111
	MOD1 (approved)	5	54	52	111
	MOD2 (proposed)	5	54	53	112
Standard visitor					
	MP10_0105(approved)	0	0	28	28
	MOD1 (approved)	0	0	28	28
	MOD2 (proposed)	0	0	28	28
Accessible visitor					
	MP10_0105(approved)	0	0	2	2
	MOD1 (approved)	0	0	2	2
	MOD2 (proposed)	0	0	2	2
Standard retail					
	MP10_0105(approved)	0	0	8	8
	MOD1 (approved)	0	3	8	11
	MOD2 (proposed)	0	3	8	11
Motorbike					
	MP10_0105(approved)	3	2	2	7
	MOD1 (approved)	3	2	2	7
	MOD2 (proposed)	3	2	2	7
TOTAL					
	MP10_0105(approved)				780
	MOD1 (approved)				783
	MOD2 (proposed)				789

6.4 Provision of Publicly Accessible Toilets

The provision of public toilets, including accessible toilets, under the approved MP10_0105 MOD1 includes;

- public toilets including 2 x accessible toilets at podium level, and
- public toilets including 1 x accessible toilet at basement 01 level.

One of the accessible toilets at the podium level and the accessible toilet at basement 01 level are located separate to the remaining public toilets.

It is proposed to locate an accessible toilet on both of the above levels, in the same location as the remaining public toilets. The area where the separate accessible toilets were located

will be converted to Council storerooms. This has been done at Council's request as they will maintain the public open space in the future and need storage areas for equipment.

In conclusion, both publicly accessible levels (podium and basement 01) will have access to public toilets, including an accessible toilet.

See **Figures 5-6** for toilet location and layout.

Figure 5: Basement level 01 - proposed toilet location & layout

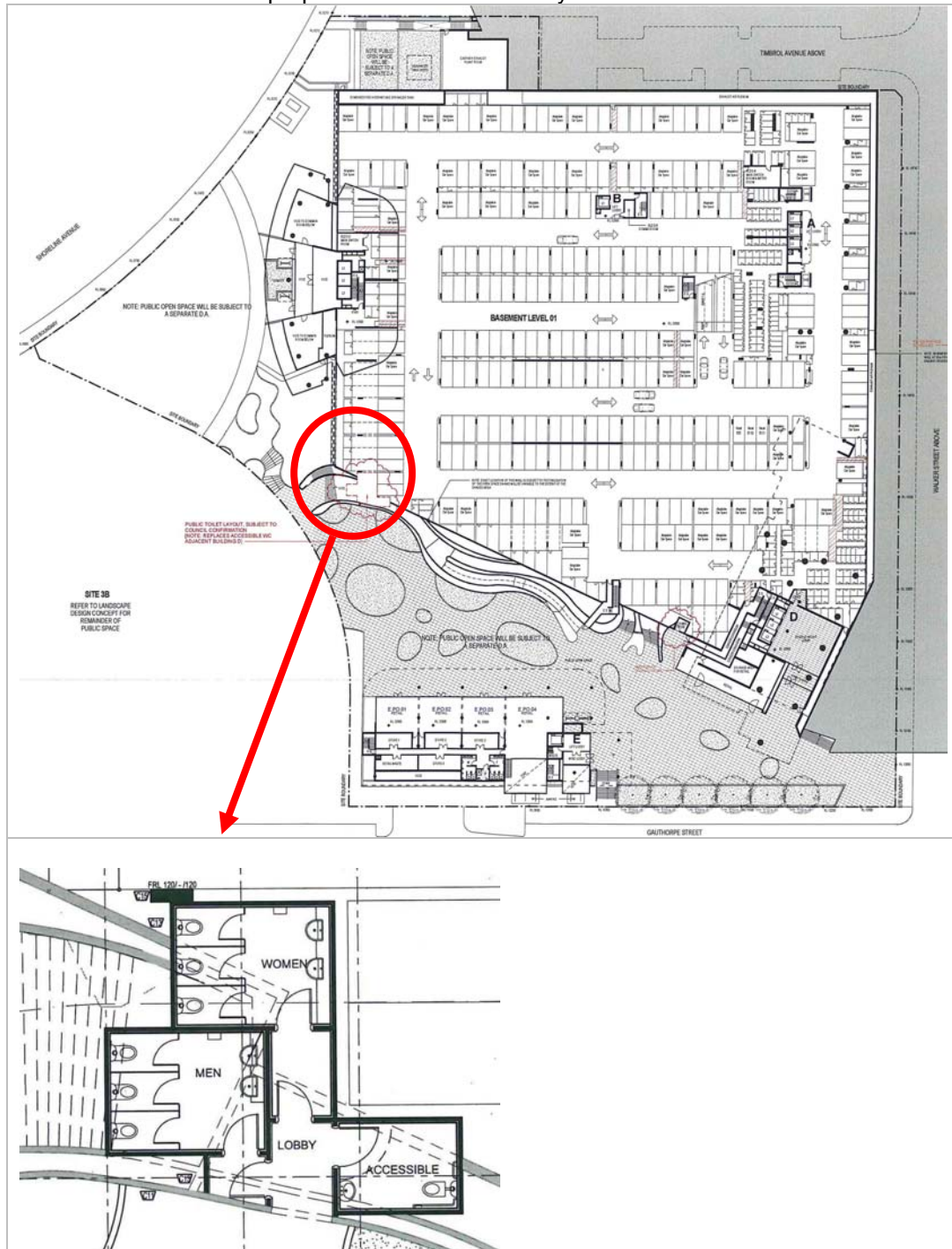
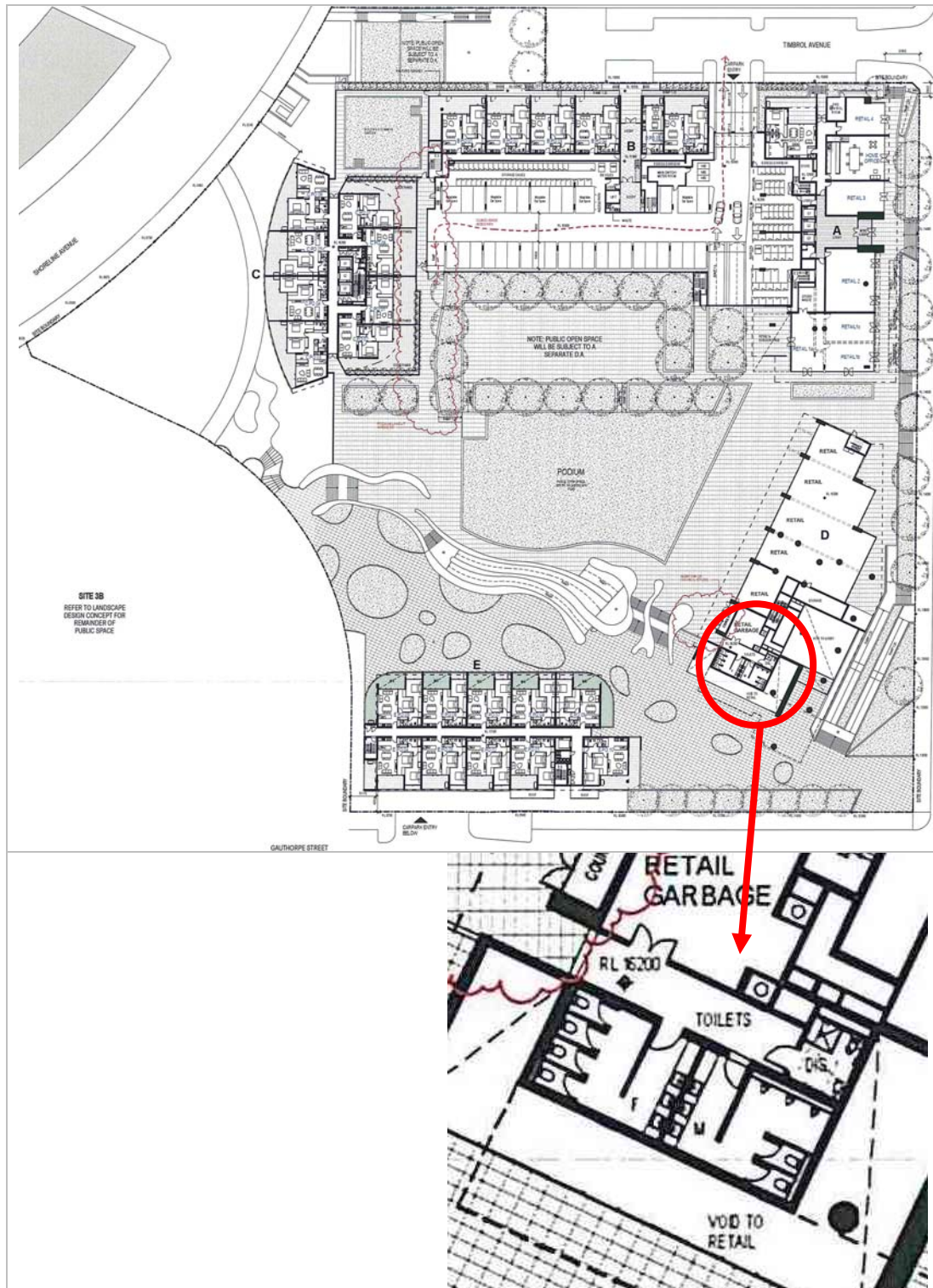


Figure 6: Podium level toilet location



6.5 Amendments to the Conditions of Approval

The proposed modification will also require amendments to the conditions of project approval. The modified conditions have been described below and are detailed in the attached modifying instrument at **Appendix A**.

Schedule 1

- Amend the description of the development to show 743 units and 789 car parking spaces.

Schedule 2

Part A – General Conditions

- Condition 1 – *GCP1 Approved Plans and Supporting Documents*: updated to reflect revised architectural drawings.

Part B – Prior to the Issue of Construction Certificate

- Condition 22 – *Renewing Rhodes Contributions*: updated to reflect revised unit breakdown.
- Condition 34 – *CCV8 Off Street Car Parking Space Provision*: updated to reflect 6 additional residential car parking spaces.

7. CONCLUSION

The department considers the proposal, as modified, achieves the same objectives as assessed under the original approval (as modified). The modifications involving the conversion of 8 x 3-bed units to 16 x 1-bed units, minor building design amendments to buildings A & B, an additional 6 residential car parking spaces and relocation of public accessible toilets does not alter the overall nature of the approved project, nor does it introduce any detrimental environmental, social or economic impacts upon the site or surrounding locality. The department therefore recommends the modification request be approved, subject to conditions.

8. RECOMMENDATION

It is recommended that the Deputy Director-General, Development Assessment & Systems Performance, as delegate for the Minister, under section 75W of the EP&A Act approve the proposed modifications to MP10_0105, as detailed in **Section 2.0** of this report; and vary the conditions of approval as set out in the modifying instrument included at **Appendix A**.

Cameron Sargent
A/Director
Metropolitan and Regional Projects North

Chris Wilson
Executive Director
Major Projects Assessment

Richard Pearson
Deputy Director-General
Development Assessment & Systems Performance

APPENDIX A MODIFYING INSTRUMENT – MP 10_0105 MOD 2

APPENDIX B REVISED PLANS
