



MODIFICATION REQUEST:

Building C, Walker Street, Rhodes

MP 10_0105 MOD 5

Modification to rooftop to provide a private garden

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

July 2014

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1. BACKGROUND

The purpose of this report is to determine a modification request to the major project approval MP 10_0105 for a mixed use development at 40 Walker Street, Rhodes in accordance with section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The application seeks to provide a private rooftop garden to Building C for access only by the occupants of Units 19.04 and 19.05 on the uppermost level of the building.

1.1. The Site in Context

The site is located on the Rhodes Peninsular and is identified as Site 2A and 3A within Precinct B under the *Rhodes West Development Control Plan 2011* (**Figure 1**) and the now repealed *Sydney Regional Environmental Plan No. 29 – Rhodes Peninsula* (SREP 29). The site is bound by Walker Street to the east, Shoreline Avenue and Site 3B (an adjoining residential development site) to the west, Timbrol Avenue to the north and Gauthorpe Street to the south.

The site is located within the City of Canada Bay Local Government Area.

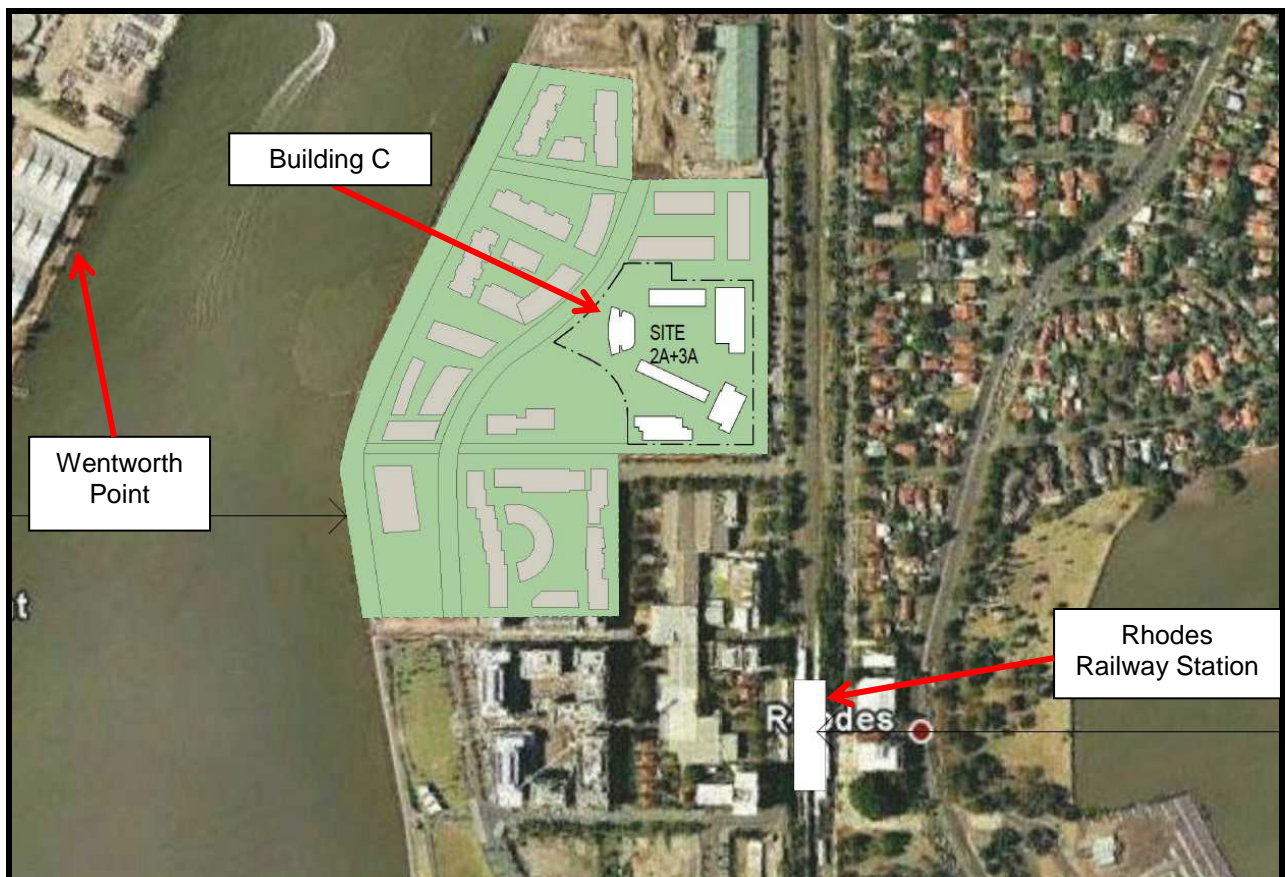


Figure 1: Regional context plan of Walker Street, Rhodes

1.2. Previous Approvals

On 21 April 2011, the Planning Assessment Commission approved a mixed use development on sites 2A and 3A (MP 10_0105) comprising:

- 735 residential dwellings within five buildings (A-E) ranging in height from 6 to 25 storeys;
- 1,050m² of retail floor space within the lower levels of Buildings A, D and E;
- basement car parking over three levels comprising 773 spaces; and
- provision of external communal open space adjacent to buildings C and D.

The exhibition and assessment of the application was undertaken by City of Canada Bay Council under the Director-General's special delegation of 27 August 2010.

The approved buildings are outlined in **Figure 2** and comprise:

- **Building A** – 25 storeys in height located in the north-eastern corner of the site. This building contains 249 residential units, three home offices, a retail tenancy, and a communal room for the use of residents on the ground floor;
- **Building B** – 6 storeys in height located adjacent to the northern boundary of the site. This building contains 66 residential units. A common open space area is located above the podium level on the southern side of the building;
- **Building C** – 20 storeys in height located along the north-western boundary of the site. This building contains 160 residential units. A common open space area is located above the podium level;
- **Building D** – 25 storeys in height located in the south-eastern corner of the site. This building contains 208 residential units with several retail tenancies located at podium level; and
- **Building E** – 6 storeys in height located adjacent to the southern boundary of the site. This building contains 50 residential units. Retail tenancies are also incorporated fronting Gauthorpe Street.

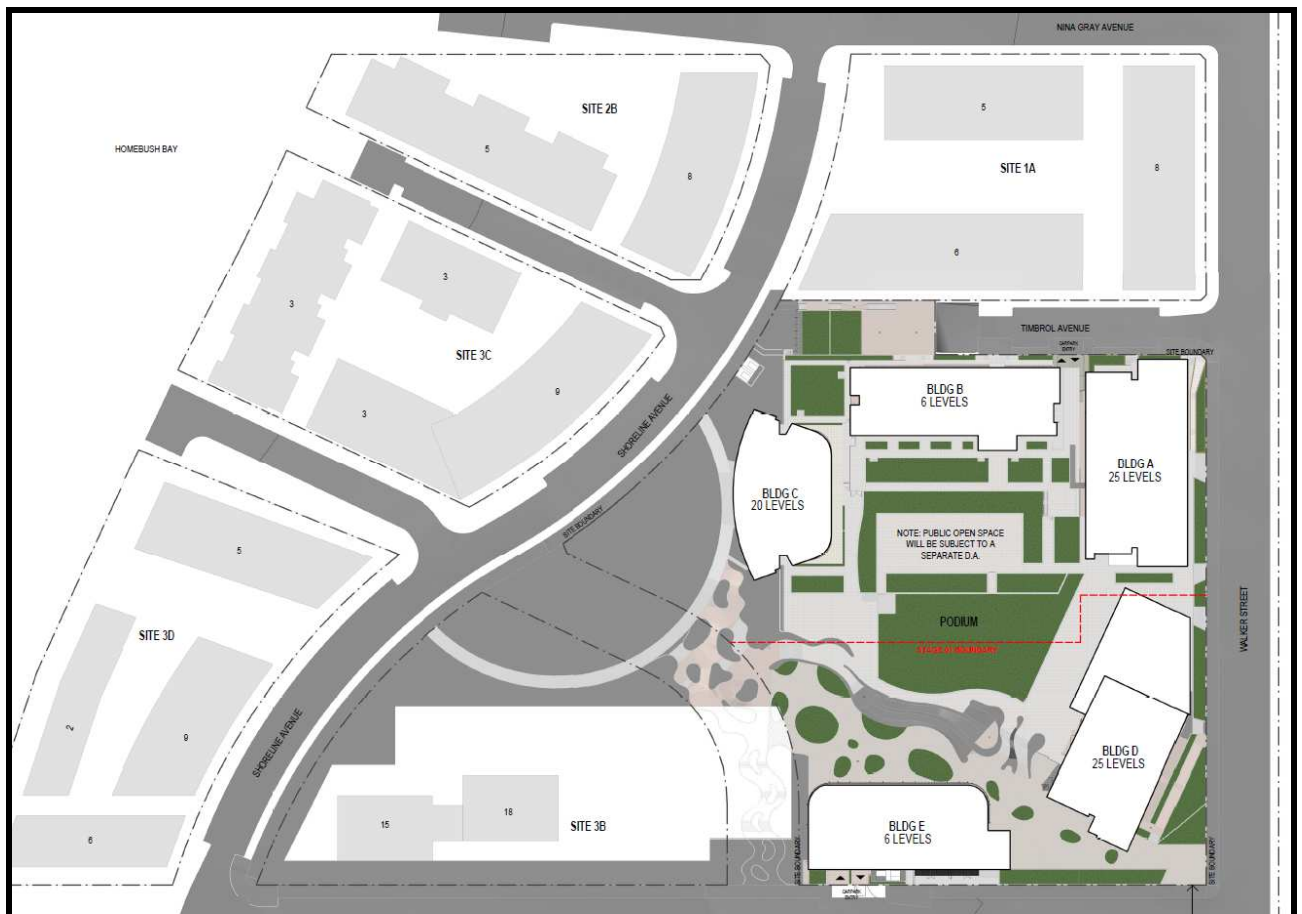


Figure 2: Location and approved layout of the Walker Street, Rhodes development

The department has determined 3 modifications to the project approval as follows:

MOD 1

Modification 1 was approved on 26 September 2012 and included:

- minor amendments to the approved architectural form of Buildings A, B, C and D;

- 298m² of increased retail floor space from 1050m² to 1348m² (converting 2 home offices and common room within Building A);
- increased retail car parking spaces from 8 to 11 spaces;
- reduced width of adaptable car parking spaces to 3600mm and permitting sharing of space with adjacent walkways and other adaptable car parking spaces;
- varied as-built levels by +/- 30mm from the levels (SSL) shown on the drawings; and
- amendments to the approved conditions of approval (Nos 1, 22, 34, 38 and 82).

MOD 2

Modification 2 was approved on 29 January 2013 and included:

- replacement of 8 x three bedroom apartments with 16 x one bedroom apartments within Building A;
- amendments to the roof outline and balconies at the eastern and western ends of building B;
- 6 additional residential car parking spaces;
- relocation of the publicly accessible toilets on basement level 01 and podium level and provision of Council storerooms (and relocation of the accessible toilets);
- provision of Council vehicle access to the central podium (upper podium); and
- amendments to the approved conditions of approval (Nos 1, 22 and 34).

MOD 3

Modification 3 was approved on 1 July 2014 and included:

- 16 additional units in Building D with 877m² additional GFA;
- provision of 127 additional wintergardens, and reconfiguration and deletion of 4 existing wintergardens;
- revised balcony profiles and modifications to building elevations;
- increase in the overall height of Building D by 400mm to RL 99.10;
- reconfiguration of car parking spaces including 1 additional adaptable car parking space;
- reconfiguration of retail layout to formalise tenancy spaces;
- apartment layout changes including additional bathrooms in Building C, revised floor levels in Building D and modified apartment mix;
- revised V shaped supporting structural column at the ground floor through site link of Building D;
- increased communal open space;
- revised roof layout to Building E; and
- increased height of service vehicle entry from Gauthorpe Street to 4.2 metres in Building E.

The department is currently considering Modification 4 which includes:

- conversion of common areas within Building C into retail floor space; and
- modification to the allocation of car parking spaces between retail and residential uses.

2. PROPOSED MODIFICATION

The proponent seeks to modify the approved rooftop layout of Building C to provide a rooftop garden for the use by occupants of the top floor units, being Units 19.04 and 19.05. The roof area will include:

- the construction of a timber deck with a pergola on the western side of the roof;
- replacement of the concrete and gravel finish on the roof with astro turf;
- planting in designated areas; and
- reconfiguration and extension of the plant and lift overrun to include a stairwell (where the unit owners will gain access to the rooftop), toilet and maintenance store.

Further details of the proposed modification are provided in **Appendix A** and the proposed configuration of the rooftop garden is provided in **Figure 3** (providing a comparison between the approved rooftop layout and the proposed amendment).

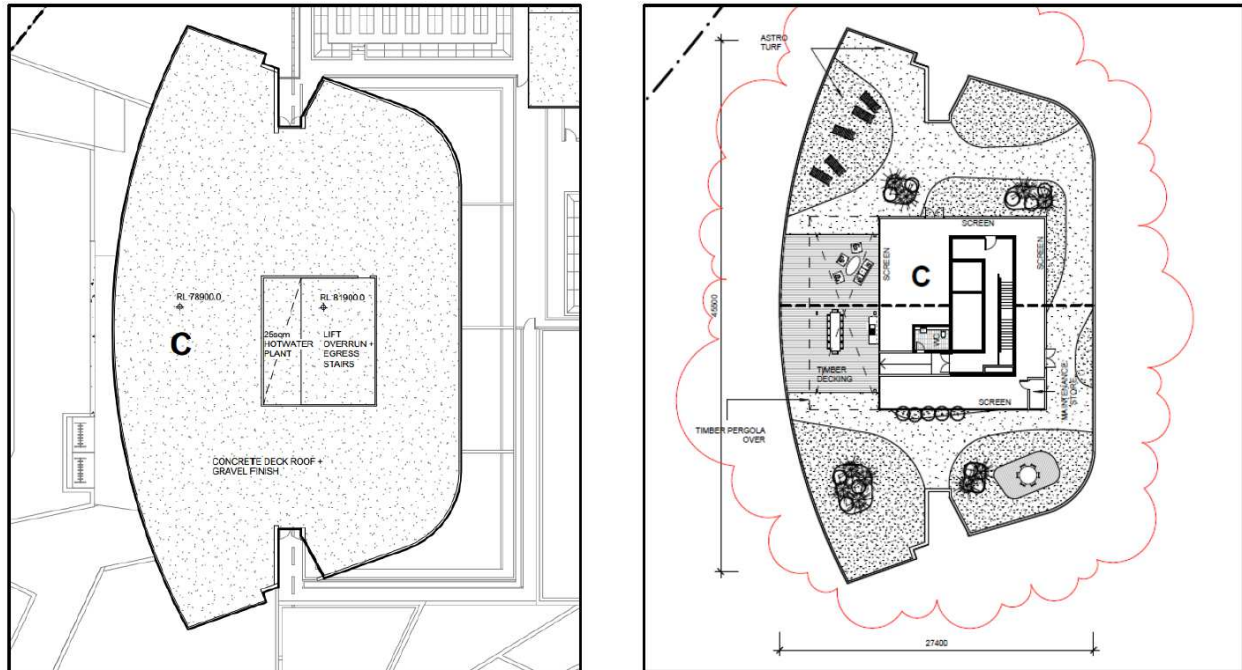


Figure 3: Approved (left) and proposed (right) amendment to the rooftop layout (Source: Proponent's application)

3. STATUTORY CONTEXT

3.1. Continuing Operation of Part 3A

In accordance with clause 3 of Schedule 6A to 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.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations. The Minister for Planning, or her delegate, may approve or disapprove of the modification request pursuant to section 75W of the EP&A Act.

3.2. Modification of the Minister's Approval

The modification application has been lodged with the department pursuant to section 75W of the EP&A Act. Section 75W provides for the modification of a Minister's approval including 'revoking or varying a condition of the approval or imposing an additional condition of the approval'.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. In this instance, the proposal seeks to modify aspects of the project approval which require further assessment. Therefore, approval to modify the application is required.

3.3. Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the department may notify the proponent of the Secretary's Environmental Assessment Requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

No additional environmental assessment requirements were issued with respect to the proposed modification, as sufficient information has been provided to the department in order to consider the application.

3.4. Delegated Authority

In accordance with the then Minister for Planning and Infrastructure's delegation of 4 April 2013, the Executive Director, Development Assessment Systems and Approvals may determine the application as:

- the relevant local council has not made an objection; 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.

4. CONSULTATION AND SUBMISSIONS

In accordance with section 75X of the EP&A Act and clause 8G of the EP&A Regulation, the department is required to make the modification request publicly available. The modification request was made available on the department's website and referred to the City of Canada Bay Council for comment. Due to the nature of the proposed modification, it was not exhibited by any other means.

Council has advised that it raises no concerns with the application. No public submissions were received.

5. ASSESSMENT

The proposal seeks to modify the rooftop of Building C through providing a private rooftop garden. In particular, the proposal includes:

- the construction of a timber deck with a pergola on the western side of the roof;
- replacement of the concrete and gravel finish on the roof with astro turf;
- planting in designated areas; and
- reconfiguration and extension of the plant and lift overrun to include a stairwell (where the unit owners will gain access to the rooftop), toilet and maintenance store.

As a consequence of the above amendments, the exterior appearance of the approved rooftop plant area is modified (**Figure 4**). The overall height of the building and plant is maintained, however the modifications to the plant and lift overrun, new pergola and landscaping, will alter the visual appearance of the rooftop of the building when viewed from neighbouring buildings.

Notwithstanding, the department considers that the overall visual impact will be improved. The introduction of landscaping and a pergola will assist in screening and minimising the visual dominance of the roof top plant and lift overrun.

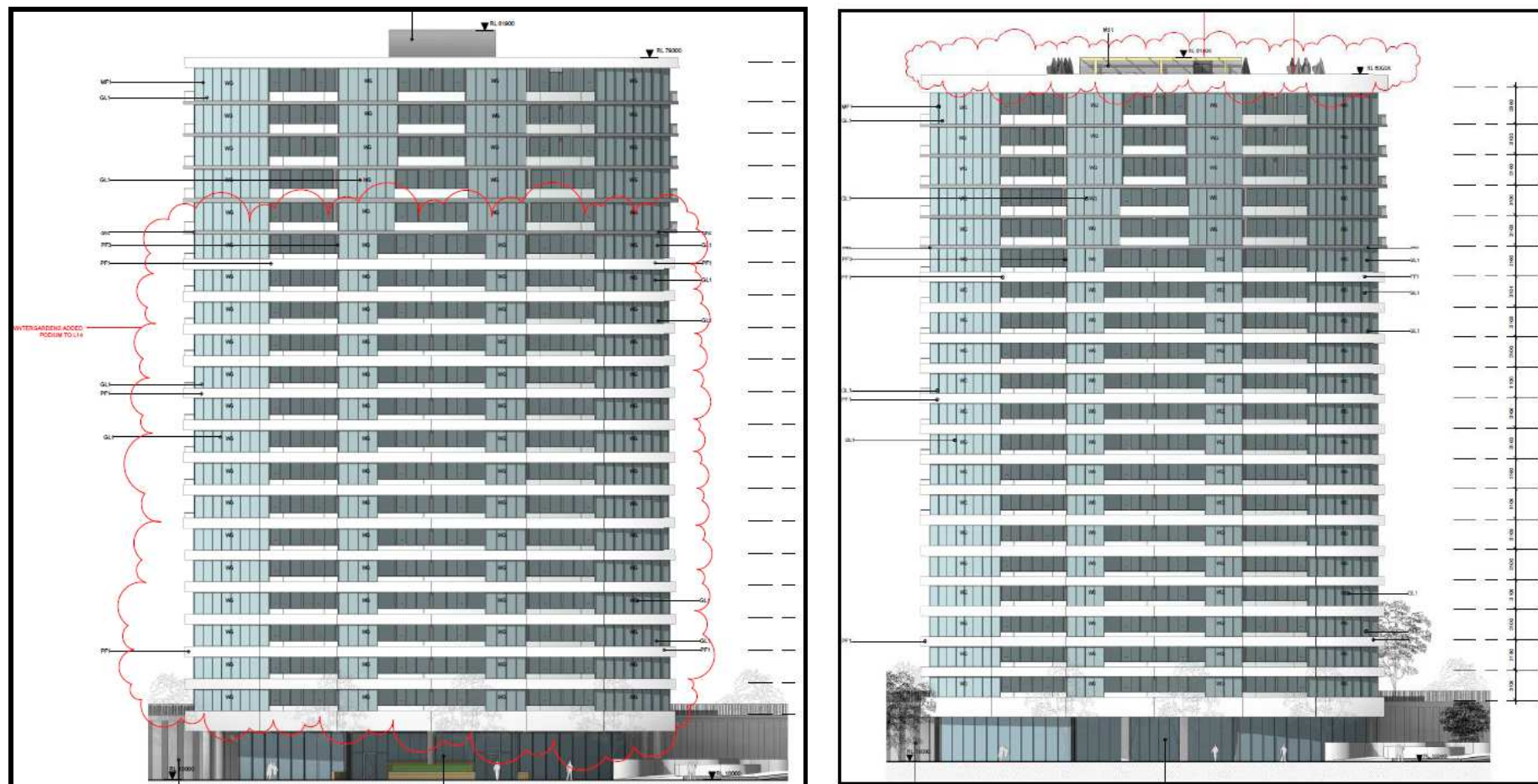


Figure 4: Approved (MOD 3) and proposed western elevation (Source: Proponent's application)

As the overall height is unchanged and the plant/lift overrun and pergola is setback from the building edge, the proposal will not result in any additional overshadowing impacts.

The proposal is also unlikely to result in any privacy impacts greater than those assessed in the original application, given the height of the rooftop garden and separation from neighbouring properties across Shoreline Avenue.

The department notes that the proposal intends to allocate the rooftop garden for use of Units 19.04 and 19.05 only. The major project approval does not incorporate strata subdivision and therefore the exclusive use of this space is a matter to be addressed in any future strata subdivision of the building.

Noting the above, the department considers that the proposal does not impact on the approved bulk and scale of the building and therefore the proposed modifications are supported.

6. CONCLUSION

The department has assessed the proposed modification on its merits and is satisfied that the proposal is reasonable and generally consistent with the existing approval. The proposed rooftop garden is considered not to give rise to environment impacts and will provide residents will improved amenity.


Having regard to the above, the department is satisfied that the proposed modifications are acceptable.

7. RECOMMENDATION

It is therefore recommended that the Executive Director of Development Assessment Systems and Approvals as delegate for the Minister for Planning:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request, subject to conditions under section 75W of the EP&A Act, and
- (c) **sign** the attached Instrument of Modification (**Appendix C**).

Endorsed by:


Cameron Sargent
A / Manager
Key Sites & Social Projects

Endorsed by:


Daniel Keary
Director
Industry, Key Sites & Social Projects

Approved by:

Chris Wilson
Executive Director
Development Assessment Systems and Approvals

APPENDIX A MODIFICATION REQUEST

See the Department's website at
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6549

APPENDIX B SUBMISSIONS

See the Department's website at
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6549

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
