



MODIFICATION REQUEST:

Building D, Walker Street, Rhodes

MP 10_0105 MOD 6

Modification to Level 6 of Building D.

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

January 2015

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1. BACKGROUND

1.1. Introduction

The purpose of this report is to determine a modification request to amend 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 separate one dual key apartment in Building D into one studio apartment and one two-bedroom apartment.

1.2 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as Site 2A and 3A within Precinct B under the *Rhodes West Development Control Plan 2011* (**Figure 1**) and the now repealed *Sydney Regional Environmental Plan No. 29 – Rhodes Peninsula* (SREP 29).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.

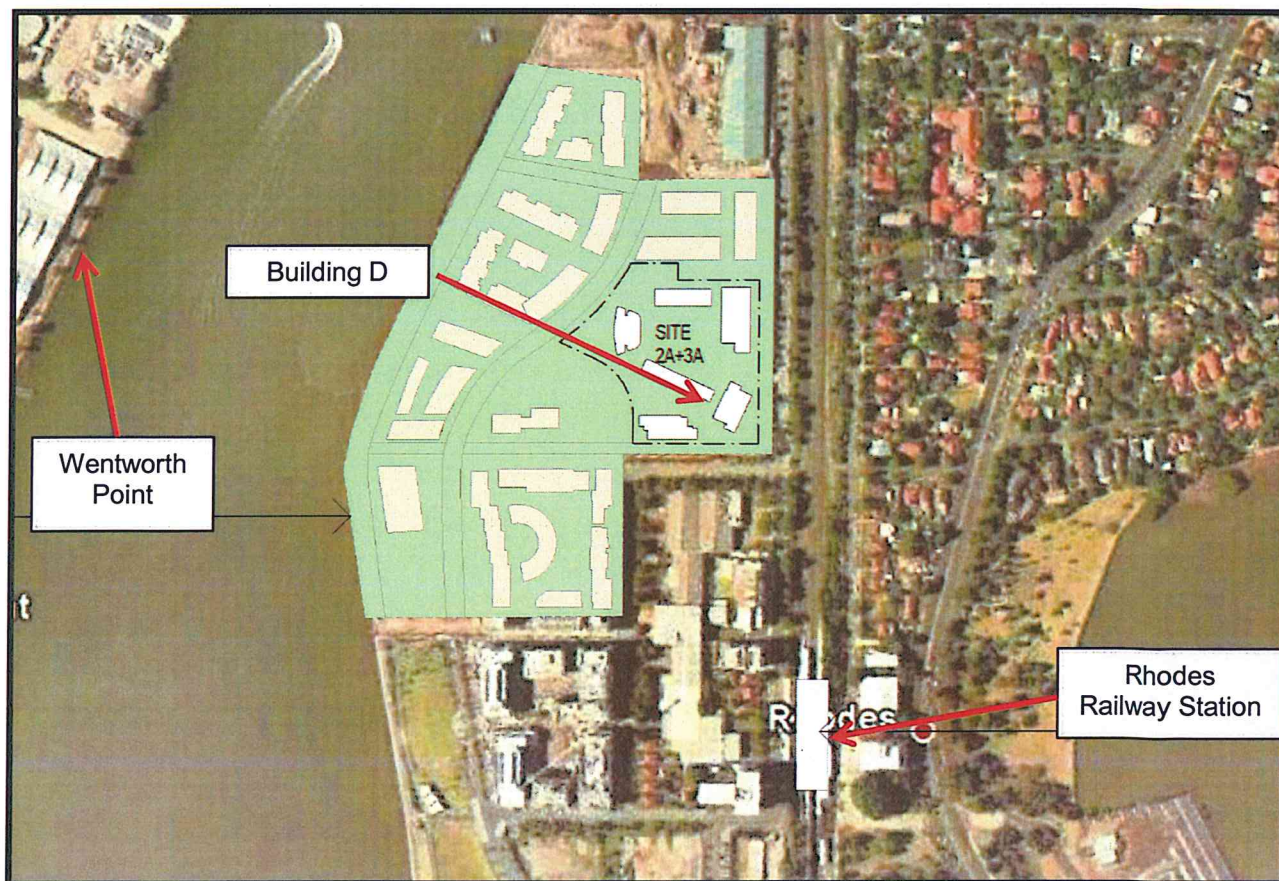


Figure 1: Regional context plan of Walker Street, Rhodes

1.3 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.

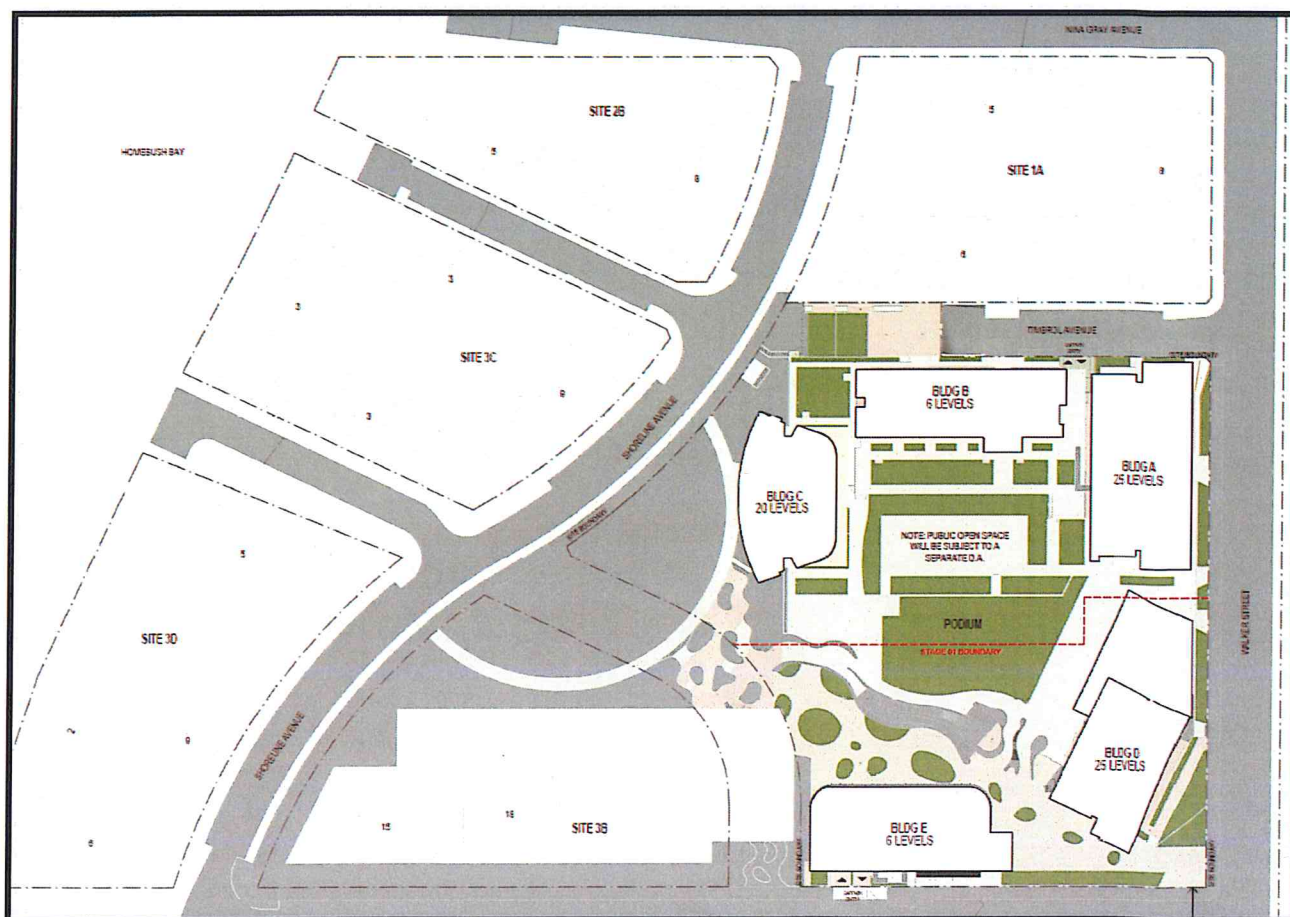


Figure 2: Location and approved layout of the Walker Street, Rhodes development

The Department has determined 5 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.

MOD 4

Modification 4 was approved on 9 September 2014 and included:

- 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.

MOD 5

Modification 5 was approved on 29 July 2014 to provide a private rooftop garden to Building C.

2. PROPOSED MODIFICATION

The proponent seeks to convert dual key apartment D.6.12 into one studio apartment with a new protruding balcony (D.6.12) and one two-bedroom apartment (D.6.13). The proposed internal and external changes are depicted in **Figure 3** overleaf.

The conversion of the dual key apartment to two separate apartments is proposed to respond to market demand for smaller apartments.

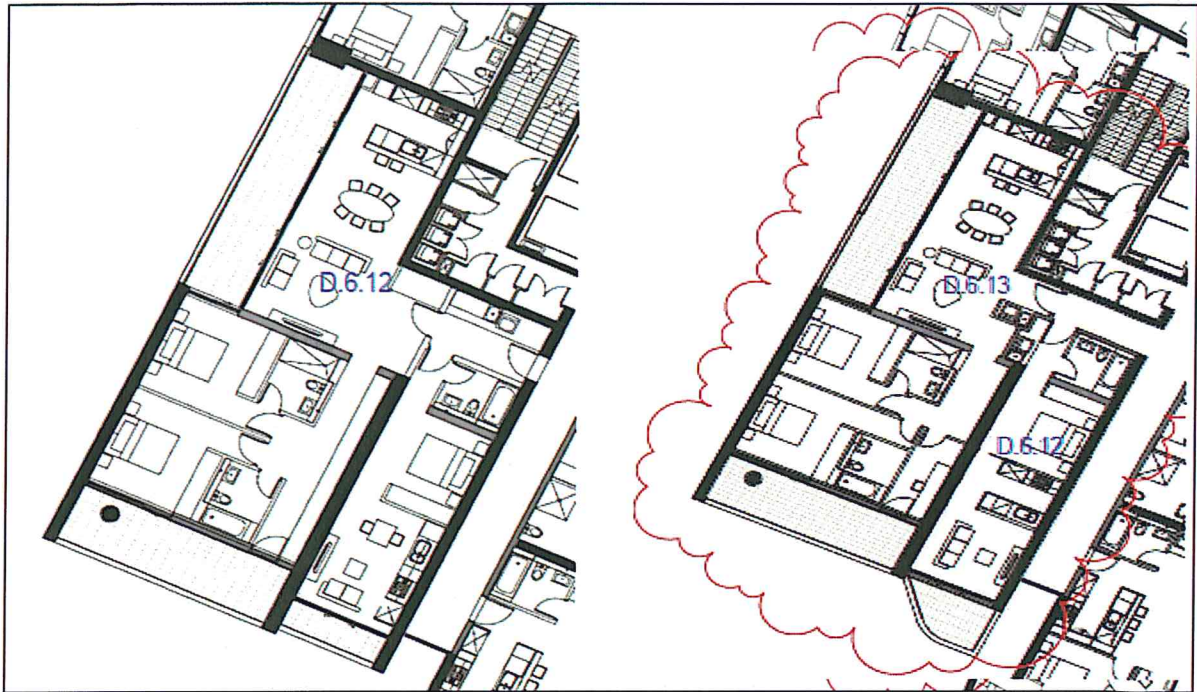


Figure 3: Approved (left) and proposed (right) Level 6, Building D

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

Section 75W(2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval of a modification is not required if the project, as modified, is consistent with the original approval. As the proposed modification seeks to alter the approved plans and conditions of the Project Approval, the modification requires the Minister's approval.

3.3 Secretary's 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 Minister for Planning's delegation of 10 November 2014, the Executive Director, Infrastructure and Industry Assessments 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 no 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 Council for comment. Due to the nature of the proposed modification, it was not exhibited by any other means.

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

5. ASSESSMENT

The Department considers that the assessment issues are:

- compliance with the *State Environmental Planning Policy No 65 –Design Quality of Residential Flat Development* (SEPP 65);
- car parking; and
- section 94 contributions/Voluntary Planning Agreement.

5.1 Compliance with SEPP 65

The *State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development* (SEPP 65) sets out ten design quality principles to ensure residential flat buildings are well designed. The ten design principles are context, scale, built form, density, resource, energy and water efficiency, landscape, amenity, safety and security, social dimensions and housing affordability and aesthetics.

As the proposal is predominately internal, only proposing one additional balcony, the majority of the design quality principles are not applicable to the assessment of this modification application. However, the relevant principals are considered below.

Amenity

The studio apartment has been designed to optimise the amenity of the future residents providing 41.7 m² of internal floor space. This exceeds the recommended internal studio apartment size in the Residential Flat Design Code (RFDC) and draft Apartment Design Guide (draft ADG) of 38.5 m² and 35 m² respectively.

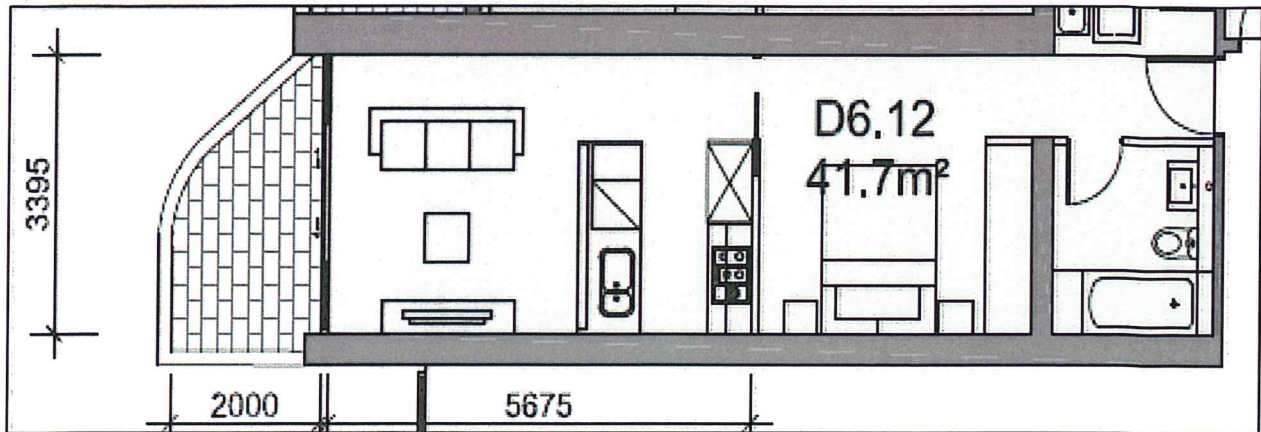


Figure 4: Proposed studio apartment D.6.12

To provide the internal studio floor area, the proponent has incorporated the previously approved 1 m x 3.395 m (3.395 m²) balcony on the southern elevation (see **Figure 3** above) into the studio apartment. This balcony is proposed to be replaced with a new protruding curved balcony (see **Figure 4**), which will enhance the amenity of the future residents as it is a functional external space being predominantly 2 metres deep to accommodate a table and chairs. The balcony is also covered to provide weather and sun protection. Additionally, the curved shape and balcony depth will not restrict sunlight entering the apartment below.

In accordance with the *Canada Bay Local Environmental Plan 2008*, the applicable instrument at the time the original project was approved, the proposed balcony is excluded from the gross floor area calculation as only the outer eastern wall is greater than 1.4 metres high.

Additionally, the studio apartment's layout maximises access to sunlight and natural ventilation placing habitable rooms, including the kitchen, within 8 metres of the glazed sliding doors to the balcony. The Department notes that the overall apartment depth of 12.28 metres exceeds the 8 metre single aspect apartment depth recommendation in the RFDC and draft ADG (which varies depending on floor to ceiling heights), but is satisfied the proposed layout will ensure a comfortable indoor living environment.

The internal reconfiguration of the two-bedroom apartment (see **Figure 5**) is minor and will continue to provide a high level of amenity for the future residents. Additionally, the 98.3 m² of internal floor space exceeds the recommended minimum of 70 m² for two-bedroom apartments in the RFDC and draft ADG.

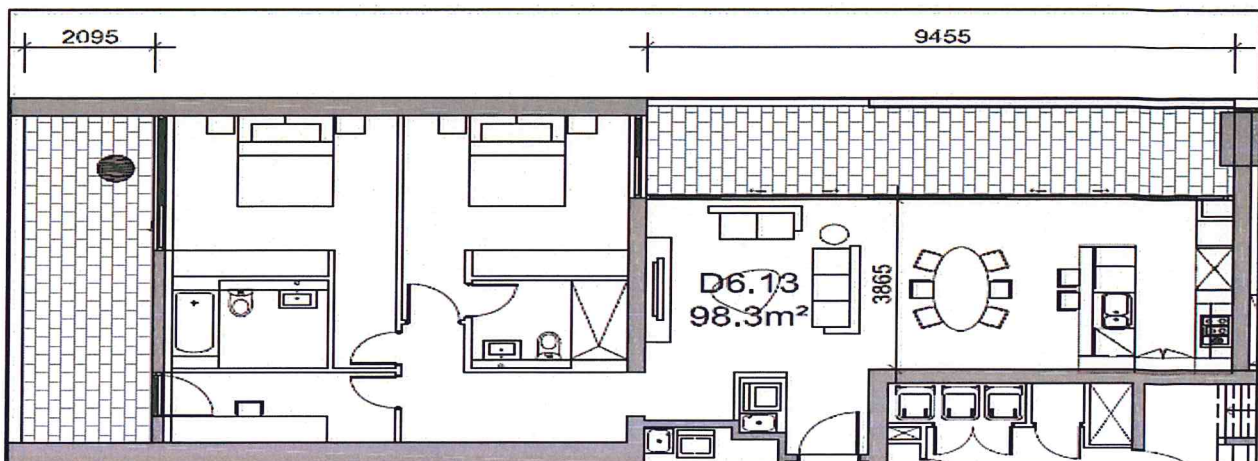


Figure 5: Proposed two-bedroom apartment D.6.13

Aesthetics

The aesthetic quality of Building D is maintained as the only external change is the new balcony which is a complimentary architectural element to the built form as the curved shape is similar to the approved balconies on the southern elevation (see **Figure 6**).

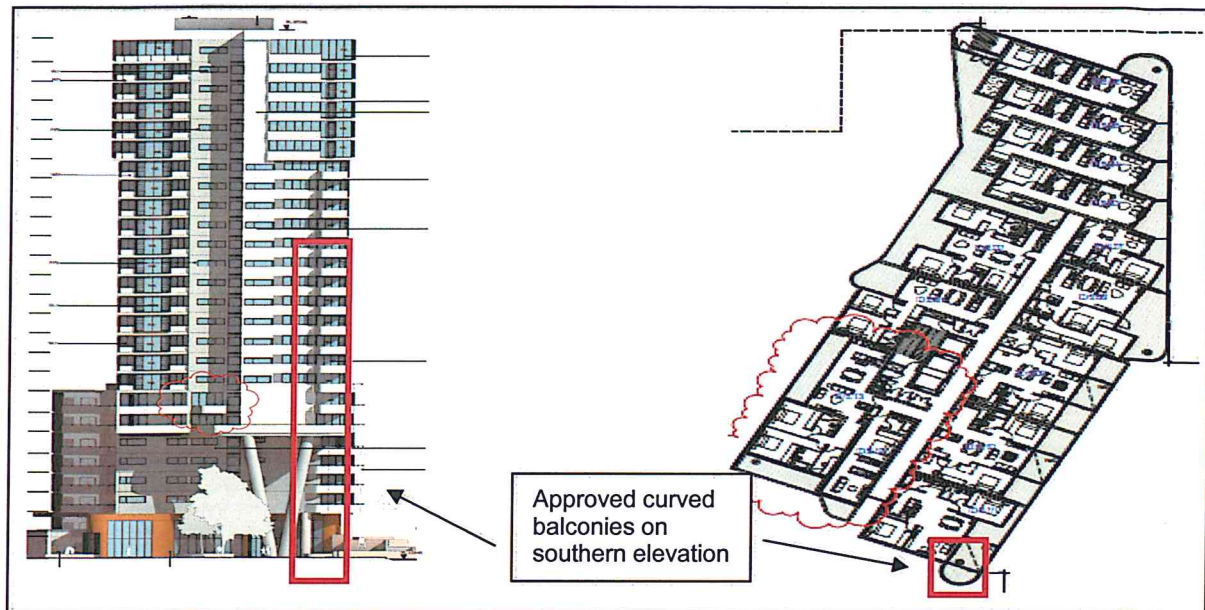


Figure 6: Approved balconies curved balconies on southern elevation

Social dimensions and housing affordability

The conversion of the three-bedroom dual key apartment into a studio and a two-bedroom apartment promotes housing affordability by providing a greater housing mix for people with different budgets and housing needs.

Resource, energy and water efficiency

A revised BASIX certificate has been submitted that confirms that Building D, as modified, meets the prescribed sustainability targets for water and energy consumption and the minimum performance levels for the thermal comfort.

5.2 Car Parking

No additional parking is proposed for the studio apartment. The Department has previously supported reduced parking on the site noting the site's excellent access to public transport, including Rhodes Railway Station (350 metres away) and the bus services along the Rhodes Peninsula. On this basis, the Department supports the proposal as it reduces reliance on car use by encouraging the future residents to use public transport.

It is also noted that the draft ADG proposes that residential flat building sites within 400 metres of a railway station in the Canada Bay Local Government Area are not required to be allocated with car spaces.

5.3 Section 94 Contributions/Voluntary Planning Agreement

As part of the original assessment and approval, Council entered into a Voluntary Planning Agreement (VPA) with the proponent which required the developer to pay monetary contributions for the approved GFA over and above that permitted under the now repealed *State Regional Environmental Plan 29 – Rhodes Peninsula* (41,348 m²).

As a consequence of the conversion of the dual key apartment into two apartments, the gross floor area (GFA) will be reduced by 5 m² (from 57,894 m² to 57,889 m²). Due to the minor reduction in GFA a variation to the VPA with Council is not required. However, the Department

recommends that the monetary contributions payable to Council set out in Condition 22 of the Project Approval are amended to reflect the new unit mix.

6. CONCLUSION

The Department has considered the proposed modifications to the Project Approval and the key issues associated with these modifications. The conversion of the dual key apartment into two apartments will maintain a high level of residential amenity consistent with the Project Approval, and with each apartment provided with a good size and internal layout, private open space, ventilation and sunlight access consistent with the RFDC and the draft ADG. The external changes to the building, including new protruding balcony are minor in the context of the development and will have minimal impacts on the external appearance of the building.

Additionally, due to the minor nature of the modifications the Department is satisfied that the proposed modifications will not result in any adverse impacts to the locality.

It is therefore recommended that the modification request be approved, subject to conditions, as outlined in the recommended Modifying Instrument.

7. RECOMMENDATION

It is therefore recommended that the Executive Director, Infrastructure and Industry Assessments, as delegate of 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**).

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Endorsed by:

Approved by:

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Team Leader
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Executive Director
Infrastructure and Industry Assessments

APPENDIX A MODIFICATION REQUEST

See the Department's website at: <http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

See the Department's website at: <http://majorprojects.planning.nsw.gov.au>

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
