

ASSESSMENT REPORT

M2 SITE, NORTH RYDE SSD 5093 MOD 2

1. INTRODUCTION

This report is an assessment of an application seeking approval to modify a State Significant Development approval (SSD 5093) for the redevelopment of the M2 Site within the North Ryde Station Precinct. The application has been lodged by Urban Growth NSW (the Applicant) pursuant to section 96 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

It seeks approval to modify the wording of the development consent to clarify that bonus floorspace provisions for affordable housing can be applied to the site. The proposal also seeks changes to the development consent to reflect the final staging of works, security bond arrangements and additional works to facilitate the construction of the pedestrian bridge.

2. SUBJECT SITE

The subject site, known as the 'M2 Site' is located adjacent to the M2 Motorway at North Ryde. The site has a total area of 91,530m² and is owned by Urban Growth NSW (**Figure 1**). The site has been cleared and used as a site compound associated with the M2 Hills Motorway upgrade and the Epping to Chatswood railway line.

Development surrounding the site includes large scale commercial / office premises to the north and west, a mix of open space and residential uses to the south across Epping Road, and the Macquarie Park Crematorium and Cemetery to the east beyond the M2 Motorway.



Figure 1: Site Location

3. APPROVAL HISTORY

On 6 March 2015, the Executive Director, Infrastructure and Industry Assessments, granted State Significant Development Approval (SSD 5093) for a Concept Proposal and Stage 1 works for the redevelopment of the M2 Site at North Ryde.

The Concept Approval included subdivision of the site into 12 development lots, allocation of floor space across the site, public open space, roads, and infrastructure works (refer to **Figure 2**).

The approved Stage 1 works included site preparation works; super lot subdivision, civil and public domain works, including construction to the new roads, open space, relocation of an existing gas main to the boundaries of the site, a pedestrian bridge over Delhi Road, and other infrastructure works (refer to **Figure 3**).

On 23 October 2015, the consent was modified by changing the alignment of a relocated gas main (MOD 1).

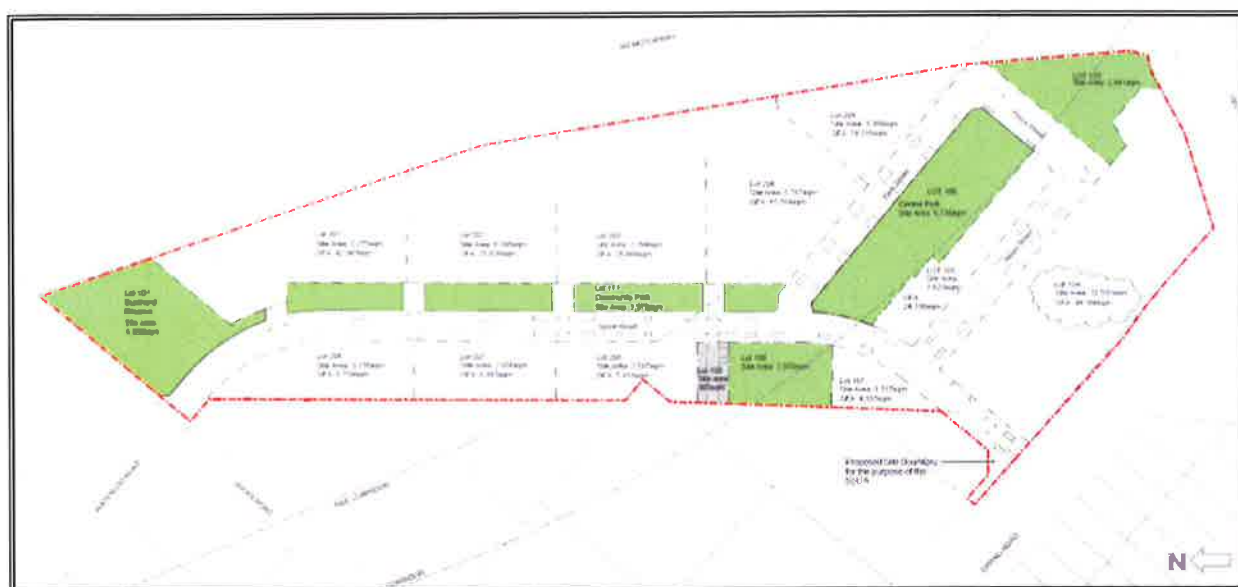


Figure 2: *Approved subdivision layout*



Figure 3: *Approved Stage 1 Works*

A draft Voluntary Planning Agreement (VPA) for the provision of open space, recreation, public art, roads and a community facility on the site is currently being negotiated between the City of Ryde Council (Council) and the Applicant, but has not yet been executed.

4. PROPOSED MODIFICATION

The Applicant lodged a section 96 (1A) modification application (SSD 5093 MOD 2) seeking approval to modify the wording of the development consent to clarify the use of bonus floorspace provisions where affordable rental housing is provided on the site. The proposal also seeks changes to the consent to reflect the final staging of works, security bond arrangements and additional works to facilitate the construction of the pedestrian bridge.

The proposed modification is requested on the basis that it would enable a more efficient delivery of key infrastructure, and provide flexibility in the maximum gross floor area (GFA) permitted on the site where development involves affordable rental housing. Currently the approval sets maximum GFAs for each development site which prevents any bonus floor space being applied to the site.

During the assessment process, the Applicant made some changes to the modifications sought, including limiting the bonus floor space provisions to only one of the development lots, and changing the required timing for completion of some external roadworks.

The proposed modifications are outlined in **Table 1**.

Table 1

Summary of Proposed Modifications	
<i>Maximum GFA</i>	<ul style="list-style-type: none">Clarify that bonus floorspace provisions for affordable housing (in accordance with relevant Environmental Planning Instruments (EPIs) such as <i>State Environmental Planning Policy Affordable Rental Housing 2009</i> (ARH SEPP)), can be applied to development within Lot 206 of the site.Clarify that any bonus FSR calculated in accordance with the relevant EPI would be in addition to the maximum GFA for each lot as identified by Condition A8.
<i>Earthworks</i>	<ul style="list-style-type: none">Amend the approved bulk earthworks to create a borrow pit in order to generate fill to create a temporary platform on the site. The level platform would be used for the construction and assembly of the bridge spans for the pedestrian bridge over Delhi Road.The borrow pit would be refilled at the end of works, or converted into future construction works for basements.
<i>Development Phasing</i>	<ul style="list-style-type: none">Modify a condition which currently requires rehabilitation works in the riparian corridor (as set out in the Vegetation Management Plan (VMP)) to be completed before the issue of the first subdivision certificate, to now enable issue of the first subdivision certificate after completing the first stage of the rehabilitation works. Remaining rehabilitation works would be carried out in accordance with the VMP, with the timing and delivery established through a Voluntary Planning Agreement (VPA) with Council.Delay the timing for the delivery of landscape embellishment of Lot 103 and the public art installation, from prior to the issue of the Phase 3 subdivision certificate, to within 3 months of the pedestrian footbridge being completed (Phase 4).Change the timing for completion of the roadworks at the Wicks and Waterloo Roads intersection, from prior to the issue of the subdivision certificate for Phase 3 to within 4 months of the issue of the subdivision certificate
<i>Security bonds</i>	<ul style="list-style-type: none">Introduce a new condition to enable the provision of a security bond for any incomplete works at the time of the subdivision certificate being issued in accordance with the bonding arrangements in the draft Planning Agreement.
<i>Subdivision Plans</i>	<ul style="list-style-type: none">Reduce the size of Lot 103 (a future park and currently designed to including the landing pad for the pedestrian overpass bridge) to include a new lot known as Lot 113 with an area of 435 sqm to accommodate the bridge landing pad,

to be transferred to RMS as part of the public road. The revised subdivision is shown in **Figure 5**.

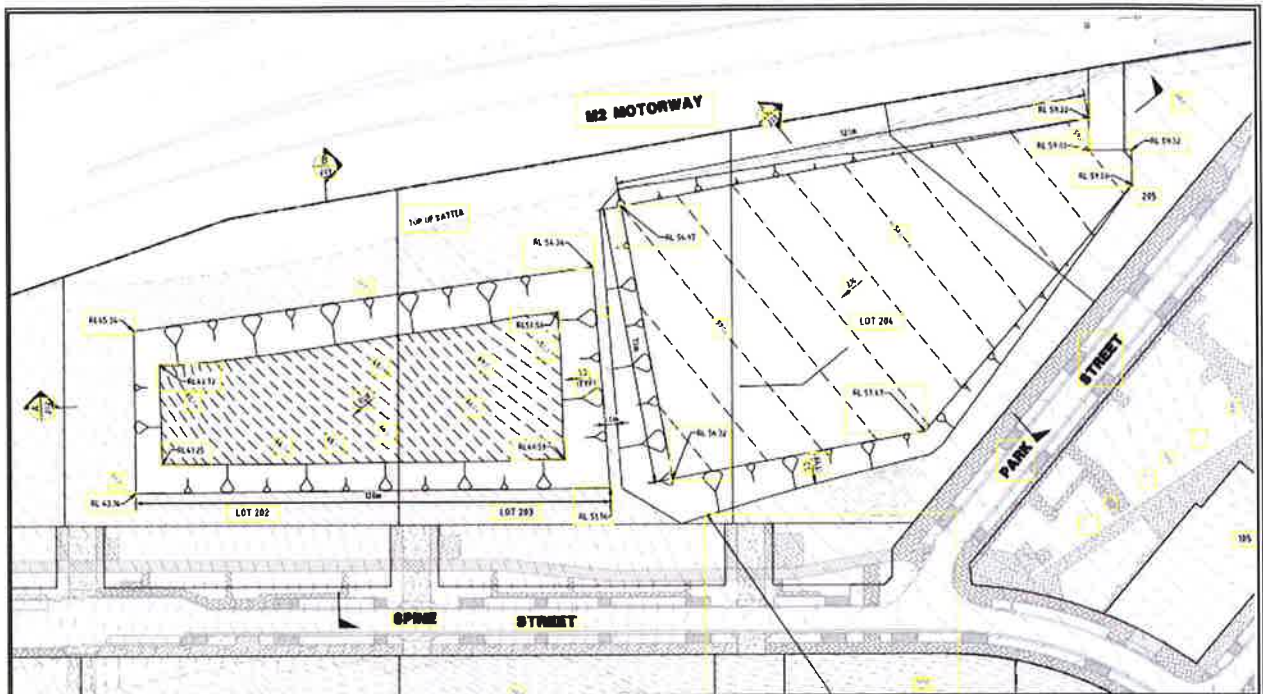


Figure 4: Borrow Pit and level platform

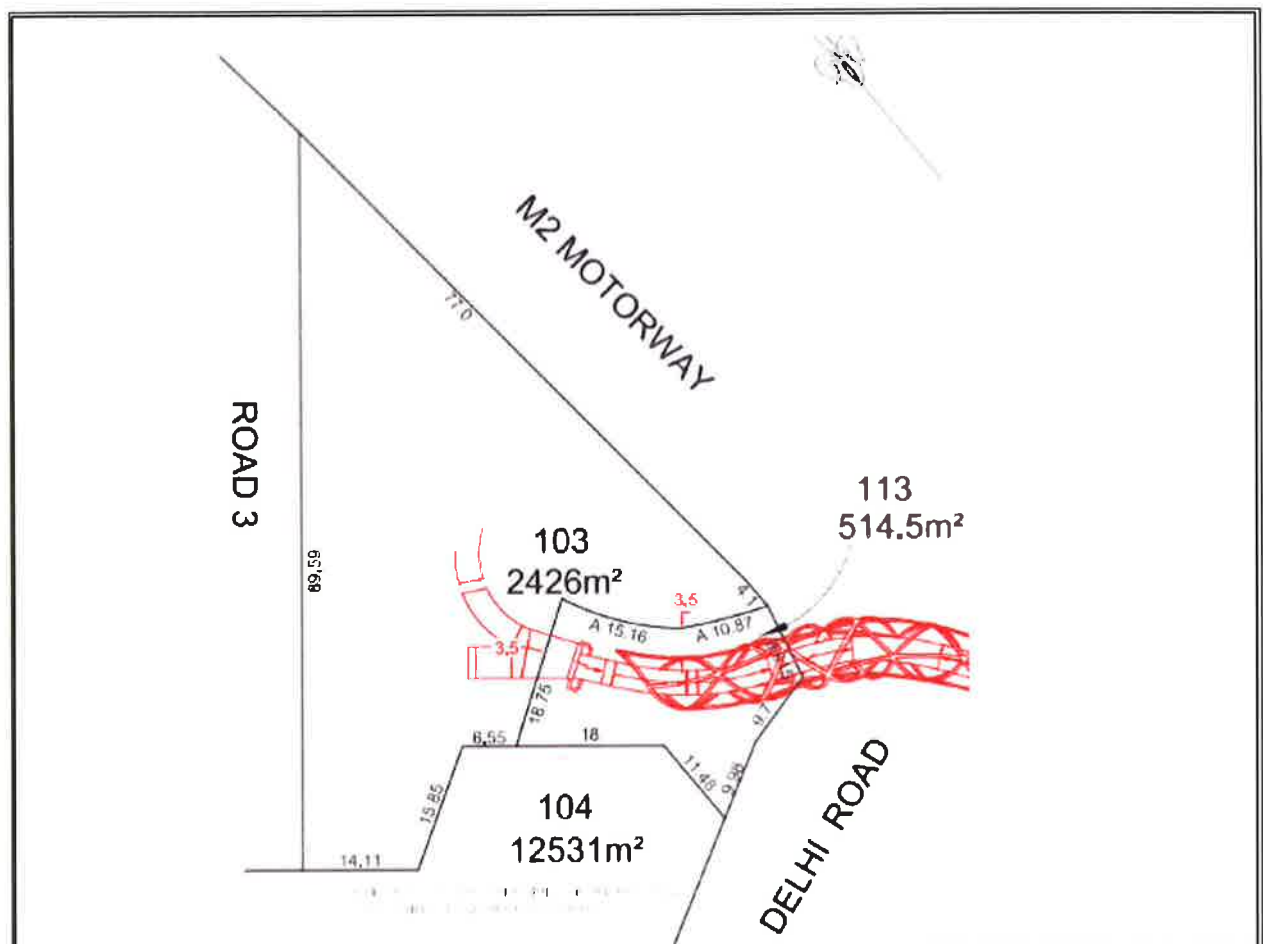


Figure 5: Bridge landing pad and amended subdivision layout

5. STATUTORY CONSIDERATION

5.1 Modification of approval

Section 96 (1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approval:

Table 1: Section 96 (1A) matters for consideration

Section 96 (1A) matters for consideration	Comment
<i>That the proposed modification is of minimal environmental impact</i>	Section 7 provides an assessment of the impacts of the proposal. The Department is satisfied the proposal would have minimal environmental impacts.
<i>That the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).</i>	The proposal to introduce flexibility in the maximum GFA could potentially result in a minor change to the final development delivered on the site. However, as the overall nature of the residential and mixed use development on the site would not materially change, the Department is satisfied that the modified proposal would result in a development which is substantially the same development for which consent was originally granted. Otherwise the proposed modification seeks to make minor changes to construction methodology and timing, which would not affect the final development delivered.
<i>The application has been notified in accordance with the regulations</i>	The modification application has been notified in accordance with the regulations. Details of the notification are provided in Section 6 of this report.
<i>Any submission made concerning the proposed modification has been considered.</i>	The issues raised in submissions are outlined in Section 6.1 and have been considered in Section 7 of this report.

5.2 Environmental Planning Instruments

The following environmental planning instruments (EPIs) applied to the assessment of development on the site:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Infrastructure);*
- *State Environmental Planning Policy No 55 - Remediation of Land*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and*
- *Ryde Local Environmental Plan 2014.*

The Department undertook a comprehensive assessment of the redevelopment against the above EPIs in its original assessment. The Department considers the proposed modification does not affect the proposal's consistency with the above EPIs,

Additional EPIs relevant to the assessment of this modification application include:

- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Living SEPP); and*
- *State Environmental Planning Policy Affordable Rental Housing 2009 (ARH SEPP).*

These have been considered in **Section 7** of this report.

5.3 Approval Authority

The Minister for Planning is the approval authority for the applications. However, the Acting Director Modification Assessments, may determine the applications under delegation as:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The Department made the modification request publicly available on its website and consulted with the Ryde City Council (Council) and other agencies about the proposed modification. Due to the minor nature of the proposed modification it was not exhibited by any other means.

Council does not object to the proposal. It initially raised concern with the potential increase in floorspace, if the bonus floor space provisions were to apply to the entire site. Following the Applicant's Response to Submissions, the Council advised that if the provisions were to only apply to one development lot, the changes would be minor and acceptable. Council also advised that no objection is raised about the timing for the completion of intersection roadworks, and that all other changes sought are consistent with its draft VPA currently under negotiation with the Applicant.

Roads and Maritime Services (RMS) does not object to the proposal, but recommends the inclusion of a new conditions regarding the dedication of the land on which the pedestrian bridge is located as public road. The RMS has no concerns with the proposed change to the timing for completion of intersection roadworks.

Transport for NSW does not object to the proposed modification, but requested that traffic impacts assessments undertaken for the site be updated to reflect any changes or increase in floorspace. In response, the Applicant submitted a traffic review, and Transport for NSW subsequently advised it has no further comment on the application.

Office of Environment and Heritage, Heritage Division (OEH) does not object to the proposal.

Department of Primary Industries, Office of Water (DPI) does not object to the modification, but recommends a condition to manage groundwater associated with excavation of the borrow pit.

The EPA does not object to the proposal and advises that key environmental issues can be adequately addressed by existing consent conditions.

There were no **public** submissions received on the proposal.

7. ASSESSMENT

The key assessment issue relates to the potential impacts arising from additional floorspace on the site. All other issues are addressed in **Table 2** below.

7.1 Additional Floor Space

To encourage the provision of affordable housing, the ARH SEPP allows a floor space bonus of up to 20% above the maximum permissible floor space where the development includes affordable rental housing. Similarly, *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Living SEPP) also includes bonus floor space provisions, being an increase in the floor space ratio by up to 0.5:1 where affordable housing is provided. The Department considers the floor space bonuses of the ARH and Seniors Living SEPPs to be important planning policies aimed at encouraging the provision of affordable housing in NSW. However, the current approval prevents the bonus floor space being applied to the site, as it sets a maximum floor space for each development lot.

Council initially raised concern that these provisions result in the potential to increase floorspace by as much as 20% across the entire site, which would require more detailed assessment of the potential impacts on built form, traffic and the capacity of local amenities and services to cater for the additional population.

The Applicant subsequently advised it no longer seeks to apply the potential floor space bonus across the entire site, but to limit it to one development lot (Lot 206). This would enable a maximum bonus floor space of 1083m² to be applied to Lot 206, providing it is developed with at least 50% of its floor space as affordable housing. The increase equates to 0.4% of the approved floor space across the entire M2 site. Council raised no objection to the amended proposal.

The Applicant submitted a Traffic Statement that compared the parking demand associated with an affordable housing development against a residential flat building on Lot 206 of the site. Despite the additional floorspace achievable under the ARH SEPP, the traffic analysis indicates that the affordable housing development would generate lower car parking rates and a lower number of vehicle trips during the peak period compared to a typical residential flat building. This is because lower rates of parking apply to affordable housing provided by social housing providers in accessible locations, such as the M2 site. As such, despite the minor increase in floor space, the traffic impact on the surrounding road network would be reduced.

The Department also notes that Condition E2 of the development consent requires future development applications to be assessed against the built form and amenity controls in the North Ryde Station Precinct Development Control Plan. Furthermore, any future development on the site is subject to the building height controls under Ryde Local Environmental Plan 2014 and the amenity controls in the State Environmental Planning Policy No. 65 – Residential Flat Development and the accompanying Apartment Design Guide.

The Department is therefore satisfied that built form and environmental impacts associated with potential additional floor space for affordable housing can be satisfactorily addressed as part of the assessment of a future development application.

The Department also notes the floor space bonuses for affordable housing provision under the relevant SEPPs that would normally have applied to the site, do not apply in this case due to a condition which limits the maximum floor space on each site. The condition was imposed in order to clarify the reallocation of floor space (specified in the LEP) across the site, and it was never intended to limit the application of the SEPPs by its inclusion.

Overall, the Department considers the modification has the potential to result in positive social and economic benefits gained through the provision of affordable housing. The Department is therefore supportive of the proposed amendment allowing floor space bonuses to apply for affordable housing provided on Lot 206, consistent with existing government policy.

7.2 Other Issues

Table 2: Other Issues

Issue	Consideration	Recommendation
<i>Earthworks</i>	<ul style="list-style-type: none"> A borrow pit excavated to a depth of approximately 3 m is proposed to facilitate a level platform for the assembly of the pedestrian bridge on the site. The proposed borrow pit would be located adjacent to the M2 Motorway in the eastern part of the site, and outside of the rail corridor. It would be filled back in to approved levels by 2018, unless it is to be utilised for basement construction, approved through a future Development Application. The DPI has recommended inclusion of an additional condition to manage impacts in the event that the groundwater table is intercepted during the excavation of the borrow pit. Although geotechnical investigations indicate ground water would be unlikely to be encountered (being located approximately 5 to 8 m below existing ground levels), the Applicant accepts the additional condition. The Department has therefore included a condition to ensure impacts are appropriately managed in the event ground water 	A new condition in relation to the borrow pit is included in the recommended modified consent.

is encountered.

- Otherwise, the Department notes there are existing conditions that would appropriately manage and minimise any impacts on the nearby rail corridor and to deal with soil and water management. The Department is satisfied the existing conditions are adequate to ensure environmental impacts are appropriately managed during the earthworks phase.

Timing of Works

Condition D3 – Rehabilitation Works

- The timing of rehabilitation works in the riparian corridor is proposed to be modified so only the first stage works in the approved VMP are required to be undertaken before the issue of the first subdivision certificate.
- The Applicant advises that these changes are consistent with the draft VPA currently being negotiated with Council and that the VPA makes provisions to ensure the remaining rehabilitation works in the riparian corridor are carried out.
- Ryde Council raises no objection to this change and notes the modification is consistent with the draft VPA.
- The Department is satisfied the change would enable a logical sequencing of works on the site, and rehabilitation works would be finalised in accordance with the VMP.

Condition D18 – Public Domain Landscaping

- The Applicant advises that the landscape embellishment of Lot 103 can only be completed once all pedestrian bridge works are complete on Proposed Lot 113.
- Therefore it is now proposed to modify Condition D18 so that these works can be completed within 3 months of the pedestrian footbridge being constructed.
- The Applicant also advises that the installation of public art is the last item to be delivered on the site and to ensure other works do not damage these items it is also proposed to complete these works within 3 months of the pedestrian footbridge being constructed.
- The Applicant advises that these changes are consistent with the draft VPA currently being negotiated with Council and Council have raised no issue with the proposed modifications.
- The Department is satisfied the intent of the conditions would be maintained and the changes are therefore acceptable.

Wicks and Waterloo Road Intersection Works

- The approval requires the intersection of Wicks and Waterloo Roads to be upgraded. The works are currently required to be completed prior to the issue of a subdivision certificate for Phase 3 of the development.
- The works are currently underway, but completion of the works has been delayed. Works are expected to be completed by the end of the year.
- A modification is sought to enable the Phase 3 subdivision certificate to be issued prior to completion of the works (with all intersection works to be complete within 4 months of the certificate). This would enable the lots to be sold to private developers prior to completion of the intersection.
- The Department notes that existing condition E3 requires that the intersection works are also required to be complete prior to the issue of a construction certificate for any of the development sites. Therefore the works would be complete prior to developer's construction vehicles entering the site. As such, there would be no adverse traffic impacts arising from the delay.
- Both Council (being responsible for Wicks and Waterloo Roads) and RMS (being responsible for the traffic lights at the intersection) raise no objection to the modification.
- The Department is therefore supportive of the modification.

Conditions D3 and D18 have been updated to reflect the changes and included in the recommended modified consent.

A new condition enabling the intersection works to be completed up to 4 months after the issue of a subdivision certificate in the recommended modified consent

<i>Security Bond</i>	<ul style="list-style-type: none"> • The proposed modification also includes a new condition requiring a security bond for any incomplete works at the time of the subdivision certificate being issued, in accordance with the draft VPA currently being negotiated with Council. • The security bonds would be paid to Council. • The Department considers the new security bond arrangements to be acceptable. 	A new condition requiring a security bond is included in the recommended modified consent.
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8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that:

- it would ensure there is an incentive for developers to potentially provide affordable housing on the site, consistent with NSW Government policy;
- any built form and environmental impacts associated with the bonus floorspace provisions for affordable housing can be satisfactorily addressed at the development application stage; and
- it enables the efficient delivery of key infrastructure on the site.

Consequently, the proposal is considered to be in the public interest and it is recommended that the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is **RECOMMENDED** that the Acting Director, Modification Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 96(1A), subject to conditions; and
- **signs** the notice of modification (**Appendix A**).

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12/9/16

APPENDIX A: INSTRUMENT OF MODIFICATION

The Instrument of Modification can be found on the Department of Planning and Environment's website at the following address:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7674

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7674

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7674

3. Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7674