



# ***Woolooware Bay Town Centre***

*Part 3A Modification  
Assessment of  
Concept Approval  
(MP10\_0229 MOD 8)*



November 2019

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### **Cover photo**

Indicative photomontage of the Woollooware Bay Town Centre retail precinct (as approved in MP10\_0229 MOD 2) (Source: Proponent's Modification Request)

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# Glossary

Abbreviation	Definition
Commission	Independent Planning Commission
Consent	Development Consent
Council	Sutherland Shire Council
Department	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
FEAR	Future Environmental Assessment Requirement
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development



# 1. Introduction

## 1.1 Preamble

This report provides an assessment of a request to modify the concept approval for a mixed-use residential and retail development known as the Woollooware Bay Town Centre (MP10\_0229).

The modification request seeks to enlarge the north western corner of building envelope E to accommodate car parking for the development.

The modification request has been lodged by Prime Woollooware 4 Pty Ltd (the Proponent) pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 1.2 Background

The Woollooware Bay Town Centre is located approximately 20 kilometres (km) south of Sydney Central Business District (CBD), along the southern foreshore of Botany Bay, within the Sutherland Shire local government area (LGA). The site has an area of approximately 10 hectares (ha) and is bound by Captain Cook Drive to the south, Dune Walk to the west, a petrol station / retail development to the east and high-voltage powerlines and wetlands/mangroves of Botany Bay to the north (**Figure 1**).



**Figure 1:** Aerial view of the site showing the concept approval boundary (red), access points (orange), the Eastern (yellow), Western (blue) and Central (green) precincts (Base source: Nearthmap)

The site currently contains (**Figure 1**):

- the Cronulla Sutherland Leagues Club, comprising a four storey building and car park providing 532 car parking spaces in the eastern precinct

- the Cronulla Sharks football stadium, comprising a football field, ground level spectator seating and three multi-storey grandstands (total capacity 21,000 spectators) in the central precinct
- residential buildings ranging in height between eight to 15 storeys within the western precinct (approved by Sutherland Shire Council and constructed in accordance with this concept approval).

### 1.3 Approval History

On 27 August 2012, the then Planning Assessment Commission (as delegate of the Minister for Planning) approved a concept plan (MP 10\_0229) for the development of the Woollooware Bay Town Centre (the concept approval) comprising a mixed retail, residential and Leagues Club development, including:

- indicative building envelopes for the residential precinct (up to 15 storeys) and retail / club precinct (up to four storeys)
- surface and above ground car parking and road works
- public pedestrian and cycle paths / boardwalks and landscaped open spaces throughout the site
- subdivision.

The Concept Approval is divided into three stages for the purposes of development, comprising:

- Stage 1: development of land east of the stadium for retail and Leagues Club uses
- Stage 2: development of land west of the stadium for residential development
- Stage 3: improvements to the stadium playing field and grandstand extensions.

The concept approval has been modified on seven occasions, including a major modification (MOD 2) to include residential and hotel/serviced apartment development on top of the retail precinct in the eastern precinct. **Table 1** provides a summary of the modifications.

**Table 1** | Summary of Modifications

MOD no.	Summary of Modifications	Approval Authority	Date Approved
MOD 1	<ul style="list-style-type: none"> <li>• Modification to increase the height of building envelopes D, E1, F and G, increase the Club outdoor deck area and administrative changes to the approval</li> </ul>	Director (as delegate of the Minister for Planning)	14 July 2014
MOD 2	<ul style="list-style-type: none"> <li>• Building envelopes for three new residential flat buildings, a serviced apartment/hotel building, function rooms, community rooms, additional car parking and a landscaped podium to the eastern precinct.</li> <li>• A Sharks Centre of Excellence added to the western grandstand with new administration, training and sports-related facilities.</li> </ul>	Independent Planning Commission (as delegate of the Minister for Planning)	18 April 2018
MOD 3	<ul style="list-style-type: none"> <li>• Increase in maximum gross floor area and maximum gross building area and adjustments to the building envelopes.</li> </ul>	Planning Assessment Commission (as Delegate of the Minister for Planning)	14 March 2016

<b>MOD 4</b>	<ul style="list-style-type: none"> <li>Allow for 50% of commercial parking in the residential precinct to be shared with residential visitors.</li> </ul>	Director (as Delegate of the Minister for Planning)	26 October 2015
<b>MOD 5</b>	<ul style="list-style-type: none"> <li>Modification to the landscape setbacks to Woollooware Bay.</li> </ul>	The Commission (as delegate of the Minister for Planning)	23 March 2018
<b>MOD 6</b>	<ul style="list-style-type: none"> <li>Internal and external changes to the design of the retail precinct resulting in an increase in the building height, gross floor area and gross building area.</li> </ul>	Executive Director (as Delegate of the Minister for Planning)	2 August 2016
<b>MOD 7</b>	<ul style="list-style-type: none"> <li>Building design changes and amendment of construction sequencing.</li> </ul>	Director (as Delegate of the Minister for Planning)	30 July 2018

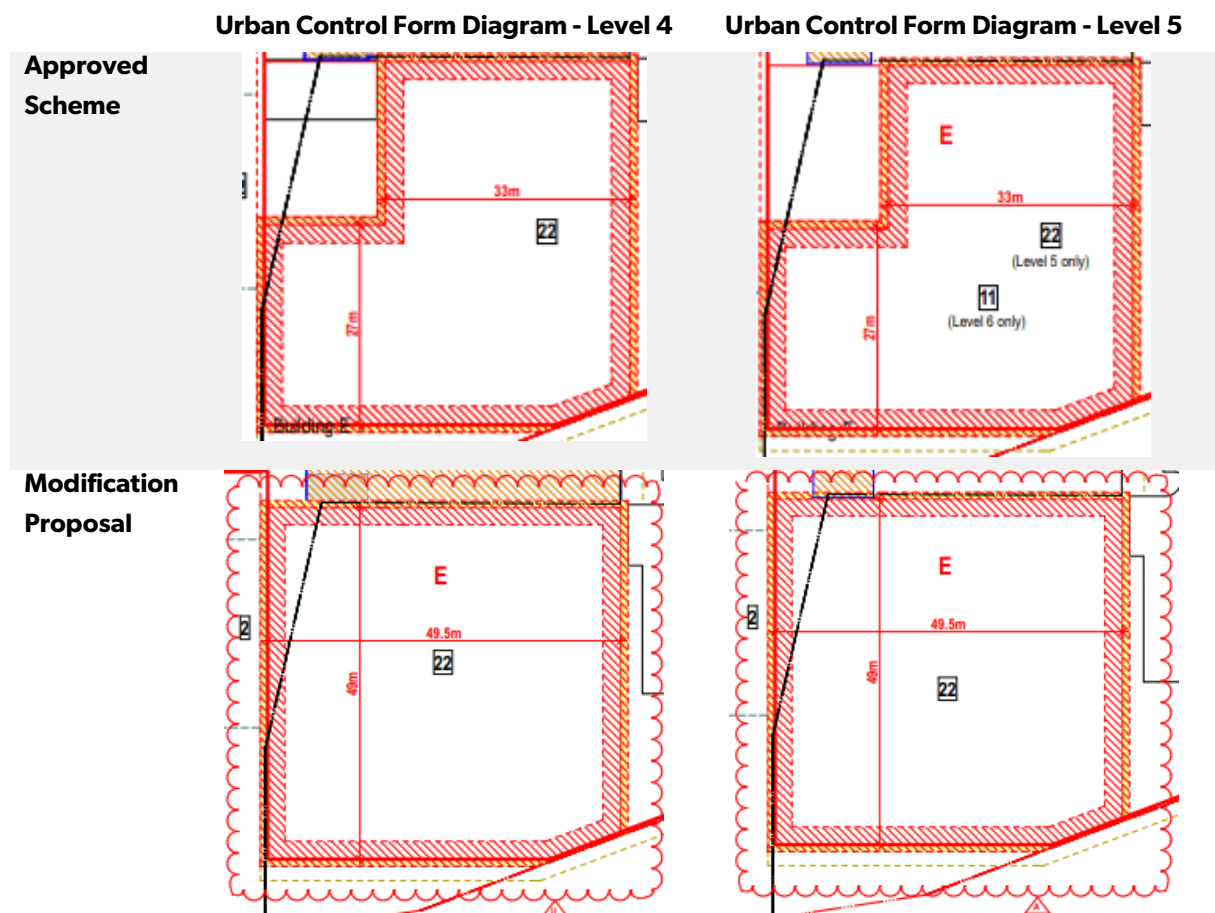


## 2. Proposed Modification

The Proponent lodged a Section 75W modification request (MP 10\_0229 MOD 8) seeking approval to modify the Concept Approval to enlarge the north western corner of building envelope E.

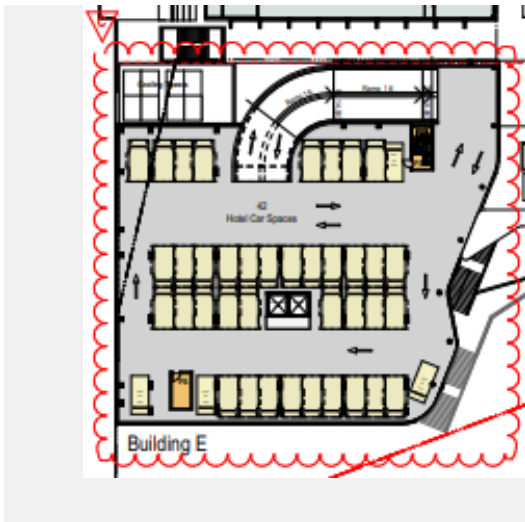
The Concept Approval provides two levels of dedicated above ground car parking for the future hotel/serviced apartments within an 'L shaped' building envelope. The proposal seeks to enlarge the north west corner of the building envelope to create a regular shaped building envelope for above ground car parking on Level 4 and 5 (**Figure 2**).

The Proponent notes this change is consistent with the indicative floor plans submitted with MOD 2 (**Figure 3**). Further, the proposal does not involve any changes to the approved gross floor area (GFA), gross building area (GBA) or any change to the overall height of Building E or the approved number of car parking spaces.

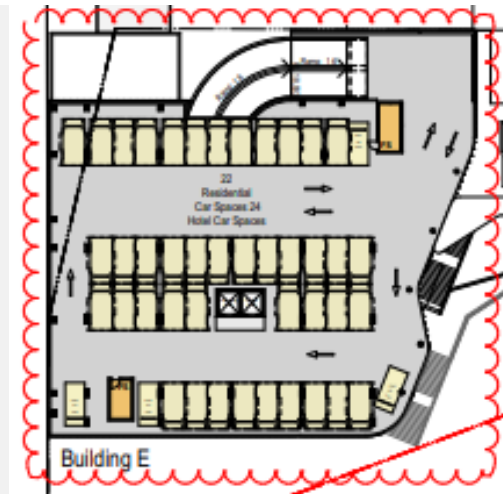


**Figure 2** | Urban Control Diagram comparison of approved and modification proposal (Source: Approved Architectural Plans and Proponent's Modification Application)

Indicative Floor Plans – Level 4



Indicative Floor Plans – Level 5



**Figure 3** | Indicative Floor Plans (Source: MP10\_0229 Mod 2 Amended Concept Plans)





## 3. Statutory Context

### 3.1 Section 75W

The Concept Approval was originally approved under Part 3A of the EP&A Act. The project is a transitional Part 3A project under Schedule 2 of the EP&A (Savings, Transitional and Other Provisions) Regulation 2017 (EP&A (ST&OP) Regulation). The power to modify transitional Part 3A projects under Section 75W of the EP&A Act is being wound up. Clauses 3BA(2) and (3) of Schedule 2 to the EP&A (ST&OP) Regulation provide that an approved concept plan cannot be modified under section 75W on or after the cut-off date of 1 March 2018, unless the request to modify was lodged before 1 March 2018.

However, Clause 3BA(5) of Schedule 2 to the EP&A (ST&OP) Regulation provides that a Concept Plan may continue to be modified under Section 75W in response to a request lodged before or after 1 March 2018 if the Minister is satisfied that:

- a) *the proposed modification is to correct a minor error, misdescription or miscalculation, or*
- b) *the proposed modification is of minimal environmental impact, or*
- c) *the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).*

The Department is satisfied that the proposal is within the scope of clause 3BA(5)(b) as it limited to the north west corner of building envelope E, has minimal environmental impacts and is substantially the development as was originally approved. **Section 5** of this report provides an assessment of the impacts associated with this proposal.

### 3.2 Consent Authority

The Minister for Planning and Public Spaces (Minister) is the approval authority for the requests. However, the Director, Key Sites Assessments may determine requests under delegation dated 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 objecting to the proposal.

### 3.3 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and accompanying Apartment Design Guide 2015 (ADG)
- Sutherland Shire Local Environmental Plan 2015 (SLEP).

The Department has considered the above EPIs in its original assessment. The Department considers the modification does not result in any significant changes that would alter the consideration and conclusions made as part of the original assessment.

### 3.4 Objects under the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the EP&A Act. The Department is satisfied the proposed modifications are consistent with the objects of the EP&A Act.



## 4. Engagement

### 4.1 Department's Engagement

The modification application was made publicly available on the Department's website on 16 September 2019 and referred the application to Sutherland Shire Council (Council) for comment.

### 4.2 Summary of Submissions

The Department received one submission from Council.

Council provided advice on the basis of the application being made to correct an error. Council is of the view that the Department did not consider the north western extension of the building envelope on Levels 4 and 5 of Building E in its assessment of MOD 2.

Council also advised:

- it supports the new upper levels of hotel parking as they improve access to the hotel
- the podium parking may produce visual impacts due to façade design issues
- the proposal would be visible from within the Sharks ground, the future foreshore area near Family Hill and Captain Cook Drive.
- the relationship of the additional podium levels to the existing Leagues Club should be considered.

No submissions were received from the public.

### 4.3 Response to Submissions

On 14 October 2019, the Proponent provided a Response to Submissions (RtS) to address the issues raised by Council. (**Appendix A**). The Proponent maintains the view that the approved building envelope for Levels 4 and 5 was an error but also submitted justification for the changes having only minimal environmental impacts.



## 5. Assessment

In assessing the merits of the proposed modification, the Department has considered:

- the modification and associated documents (**Appendix A**)
- the Environmental Assessment and conditions of approval for the Concept Approval (as modified)
- submissions received on the proposal and the Applicant's response to these (**Appendix A**)
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issue associated with the proposal relates to the potential visual and amenity impacts associated with the proposal.

The Concept Approval provides for above ground parking within two levels of podium in Building E. The proposal seeks to enlarge two levels of podium as shown in **Figures 4** and **5**.



**Figure 4** | Aerial view looking south east of amended proposed Stage 4 Development (north western extension of the building envelope outlined in red). (Base Image Sources: MP10\_0229 Mod 2 Amended Concept Plans)



**Figure 5** | Aerial view looking south east of proposed Stage 4 Development (north western extension of the envelope outlined in red). (Base Image Source: MP10\_0229 Mod 2 Amended Concept Plan)

Council noted that the podium parking may produce visual impacts and that the proposal would be visible from within the Sharks ground, the future foreshore area and Captain Cook Drive. Council also noted the relationship of the additional podium levels with the existing Leagues Club should be carefully considered to ensure a positive development outcome.

The Department has assessed the potential visual and amenity impacts associated with the proposal and considers the amended building envelope is acceptable as:

- it is in keeping with the scale and character of existing and approved buildings on the site
- it sits adjacent to the grandstand and among taller buildings when viewed from within the football ground
- it sits behind the approved ten storey building envelope for the future hotel/serviced apartments fronting Captain Cook Drive and would not be readily visible from the street
- it would not impact on views from the foreshore area as the addition is relatively minor compared to the existing and approved development on the site
- the proposal would not result in any significant overshadowing impacts as it sits immediately to the north of the approved ten storey building envelope
- the proposal would rationalise and improve the function of the approved carpark.

In addition, the Department is satisfied the detailed design of the proposed building envelope can be considered further at the DA stage by Council. The Department notes FEAR 2A requires future applications, which include above ground car parking, to submit a Building Design Visual Assessment. This assessment would ensure the facades of any above ground car parking are carefully considered during the DA stage and where appropriate, design treatments could be incorporated to ensure it would contribute positively to the overall appearance of the development.

The Department's assessment therefore concludes the proposal would not result in any significant visual or amenity impacts, and the detailed design of the podium can be appropriately considered further at the DA stage.



## 6. Evaluation

The Department has reviewed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate as:

- it is in keeping with the scale and character of existing and approved buildings on the site
- it would not result in any significant visual or amenity impacts, as the proposal is relatively minor compared to the surrounding existing and approved development
- the detailed design of the podium would be considered further at the DA stage, in accordance with FEAR 2A
- it would rationalise and improve the function of the carpark
- it is substantially the same development as originally approved and would not result in adverse environmental impacts.

Consequently, it is recommended that the modification be approved, subject to the recommended conditions (**Appendix B**).



## 7. Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report; and
- **determines** that the application MP 10\_0229 MOD 8 falls within the scope of Section 75W of the EP&A Act
- **accepts and adopts** all the findings and recommendations in this report as the reasons for making the decision to grant approval to the modification application;
- **modifies** the consent MP 10\_0229
- **signs** the attached instrument of modification (**Appendix B**).

Recommended by:

**Adrien Lalchere**

Planning Officer  
Key Sites Assessments

Recommended by:

**Amy Watson**

Team Leader  
Key Sites Assessments





## 8. Determination

The recommendation is: **Adopted by:**

*Anthony Witherdin* 1/11/19

**Anthony Witherdin**

Acting Director

Key Sites Assessments



# Appendices

## Appendix A – List of Documents

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

1. Environmental Impact Statement  
[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=10074](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10074)
2. Submissions  
[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=10074](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10074)

## Appendix B – Modification of Development Consent

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=10074](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10074)

## Appendix C – Consolidated Consent

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=10074](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10074)