

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation executed on 25 January 2010, I approve the modification of the development consent referred to in schedule 1 subject to the conditions in schedule 2.



Director
Metropolitan and Regional Projects North
Department of Planning & Infrastructure

Sydney *2 August* 2011

SCHEDULE 1

Development Approval: DA 43-3-2005 granted by the then Minister for Planning on 9 December 2006

For the following: Mixed Use Multi-storey Development at Lots 2-7 DP 224382, Lots 1 & 2 DP 759009, Lot 23 DP 776673, 1 Bay Street, 4 Thompson Street, 13-19 Enid Street, Tweed Heads.

Modification: Staging of development and associated payment of section 94 contributions (DA 43-3-2005 MOD 2).

SCHEDULE 2

The development consent is modified as follows:

PART A – ADMINISTRATIVE CONDITIONS

- 1. Immediately after the words “Bay Street tower” and before the words “at the corner of” in Condition A1 (1) a. adding the words as follows:**

“(Building B and C)”

- 2. Immediately after the words “Thompson Street tower” and before the words “at corner of” in Condition A1 (1) a. adding the words as follows:**

“(Building D)”

- 3. Immediately after the words “Enid Street tower” and before the words “(10 storeys,” in Condition A1 (1) a. adding the words as follows:**

“(Building A)”

- 4. Insert new condition A1A immediately after condition A1 as follows:**

A1A Staging

The development is to be constructed in four stages as indicated in the Section 75W application submitted on 28 February 2011 and as follows:

- 1) Stage 1 will comprise the whole of the carparking and retail areas of the development including;
 - a. All car parking levels for 386 vehicles
 - b. 2 service vehicle loading docks
 - c. 821m² of retail space and forecourt
 - d. Entrance lobbies to buildings A, B and C
 - e. New sub-station and service areas
 - f. All streetscaping the full perimeter of the site
 - g. Undergrounding of adjacent electricity supply infrastructure.
- 2) Stage 2 will comprise the construction of Enid Street tower (Building A) including:
 - a. 60 units over 9 levels commencing at level 1
 - b. All landscaping to the podium
 - c. Swimming pool.
- 3) Stage 3 will comprise the construction of Bay Street tower (Buildings B and C) including 67 units over 14 levels commencing at level 2.
- 4) Stage 4 will comprise the construction of Thompson Street tower (Building D) including 75 units over 15 levels commencing at level 2.

Stage 1 is to be commenced first. The order of subsequent stages may be constructed subject to market forces.

PART B – PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 1. Immediately after the words “Construction Certificate for” and before the words “above ground works.” in Condition B1A adding the words as follows:**

“Stage 1”

2. Deleting the last sentence of Condition B2 and replacing with the following sentence:

Details of compliance with this condition shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate for Stages 2, 3 and 4.

3. Deleting Condition B4 (3) and replacing with the following sentence:

A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for Stage 1 above ground works and Stages 2, 3 and 4.

4. Immediately after the words “Construction Certificate for” and before the words “above ground works.” in Condition B5 adding the words as follows:

“Stage 1”

5. Immediately after the words “Construction Certificate for” and before the words “above ground works.” in Condition B6 adding the words as follows:

“Stage 1”

6. Deleting the last sentence of Condition B7 and replacing with the following sentence:

Details of compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for Stage 1 below ground works.

7. Immediately after the words “Construction Certificate for” and before the words above ground works.” in Condition B9(2) adding the words as follows:

“Stage 1”

8. Deleting the last sentence of Condition B9(5) and replacing with the following sentence:

If this report concludes that the current design of these areas does not comply, amended plans showing compliance, along with a final access report prepared by the same access consultant, shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate for Stages 2, 3 and 4.

9. Immediately after the words “Construction Certificate” and before the period in Condition B11A adding the words as follows:

“for Stage 1 below ground works”

10.Immediately after the words “Construction Certificate for” and before the words “below ground works.” in Condition B12 adding the words as follows:

“Stage 1”

11.Immediately after the words “Construction Certificate for” and before the words “below ground works.” in Condition B13 adding the words as follows:

“Stage 1”

12.Immediately after the words “Construction Certificate for” and before the words “below ground works” in Condition B14 adding the words as follows:

“Stage 1”

13.Immediately after the words “Construction Certificate for” and before the words “below ground works” in paragraph 1 of Condition B15 adding the words as follows:

“Stage 1”

14.Immediately after the words “Construction Certificate for” and before the words “below ground works” in paragraph 2 of Condition B15 adding the words as follows:

“Stage 1”

15.Immediately after the words “construction certificate” and before the words “being issued.” in Condition B16 adding the words as follows:

“for Stage 1 below ground works”

16.Immediately after the words “Construction Certificate” and before the words “a satisfactory Acoustic Assessment” in Condition B16A adding the words as follows:

“for Stage 1 below ground works”

17.Immediately after the words “Construction Certificate for” and before the words “below ground works.” in Condition B17 adding the words as follows:

“Stage 1”

18.Immediately after the words “Construction Certificate Application” and before the words “ shall include a detailed stormwater” in Condition B18 adding the words as follows:

“for Stage 1 below ground works”

19. Immediately after the words “Construction Certificate” and before the period in Condition B19(1) adding the words as follows:

“for Stage 1 below ground works”

20. Immediately after the words “Construction Certificate drawings” and before the words “shall make provisions for” in Condition B21 adding the words as follows:

“for Stage 1 below ground works”

21. Immediately after the words “Construction Certificate” and before the period in Condition B22 adding the words as follows”:

“for Stage 1 above ground works”

22. Immediately after the words “Construction Certificate for” and before the words “above ground works.” in Condition B23 adding the words as follows:

“Stage 1”

23. Immediately after the words “Construction Certificate for” and before the words “above ground works.” in Condition B24A adding the words as follows:

“Stage 1”

24. Immediately after the words “construction certificate” and before the words “a set of basement plans.” in Condition B24B adding the words as follows:

“for Stage 1 below ground works,”

25. Immediately after the words “Construction Certificate for” and before the words “above ground works.” in Condition B25 adding the words as follows:

“Stage 1”

26. Immediately after the words “Construction Certificate” and before the period in Condition B26A (1) adding the words as follows:

“for Stage 1 below ground works”

27. Immediately after the words “issue of a Construction Certificate for ” and before the words “above ground works.” in Condition B26A adding the words as follows:

“Stage 1”

28. Immediately after the words “issue of a Construction Certificate for” and before the words “above ground works.” in Condition B27 adding the words as follows:

“Stage 1”

29. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works.” in Condition B28A with the words as follows:

“Stages 2, 3 and 4”

30. Immediately after the words “issue of a Construction Certificate for” and before the words “above ground works.” in Condition B29 adding the words as follows:

“Stage 1”

31. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works” in Condition B31 with the words as follows:

“Stages 2, 3 and 4”

32. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works” in Condition B32 with the words as follows:

“Stages 2, 3 and 4”

33. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works” in Condition B33 with the words as follows:

“Stages 2, 3 and 4”

34. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works” in Condition B34 with the words as follows:

“Stages 2, 3 and 4”

35. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works” in Condition B35 with the words as follows:

“Stages 2, 3 and 4”

36. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works” in Condition B38 with the words as follows:

“Stage 1 above ground works and Stages 2, 3 and 4”

37. Immediately after the words “release of the Construction Certificate” and before the words “if required.” in Condition 39 adding the words as follows:

“for Stage 1 above ground works and Stages 2,3 and 4”

38. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works” in Condition B40 with the words as follows:

“Stage 1 above ground works and Stages 2, 3 and 4”

39. Delete condition B41 and replace with new condition B41 as follows:

B41 Monetary Contributions

Payment of local contributions totalling \$2,583,360.94 pursuant to Section 94 of the Act must be paid consistently with the staging of development described in Condition A1A and prior to the issue of a Construction Certificate for that stage.

The local contributions for each Stage are as follows:

Stage 1 - \$366,557

Stage 2 - \$645,843.52

Stage 3 - \$747,299.72

Stage 4 - \$823,660.70

Under clause 146 of the Environmental Planning and Assessment Regulation, 2000, a Construction Certificate shall not be issued by a Certifying Authority for a stage of the development unless this condition is complied with. This consent contains other conditions which must be complied with before a construction certificate may be issued for a particular stage of the development. The Certifying Authority must also sight Council's Contribution Sheet signed by an authorised officer of Council.

If the contribution rate is adjusted between the date on which modification DA43-3-2005 MOD2 is approved and payment of the contribution, then the figure in this condition will be indexed and calculated according to the then current contribution rate. The applicant will be required to request in writing from Council, a recalculation of these amounts for each stage of the development in accordance with the rates applicable in Council's adopted Fees and Charges, prior to payment of the contributions. A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street Tweed Heads.

Note: These rates are current as at June/July 2011.

40. Delete condition B42 and replace with the new condition B42 as follows:

B42 Water Management Act 2000

A Certificate of Compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations 2000, a Construction Certificate shall not be issued by a Certifying Authority unless all Section 64 Contributions applicable to the development stage have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance.:

Stage 2

Water DSP4:	19.02 ET @ \$11020 per ET	\$209,600.40
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Sewer Banora:	31.603 ET @ \$5295 per ET	\$167,337.90
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Stage 3

Water DSP4:	34.69 ET @ \$11,020 per ET	\$382,283.80
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Sewer Banora:	52 ET @ \$5,295 per ET	\$275,340
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Stage 4

Water DSP4:	41.41 ET @ \$11,020 per ET	\$456,338.20
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Sewer Banora:	62 ET @ \$5,295 per ET	\$328,290
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If the contribution rate is adjusted between the date on which modification DA43-3-2005 MOD2 is approved and payment of the charges, then the figure in this condition will be indexed and calculated according to the then current rate. The applicant will be required to request in writing from Council, a recalculation of these amounts for each stage of the development in accordance with the rates applicable in Council's adopted Fees and Charges, prior to payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

41. Immediately after the words “to the issue of the” replace the words “relevant Construction Certificate” in Condition B43 with the words as follows:

“Construction Certificate for Stage 1 below ground works”

42. Immediately after the words “issue of a Construction Certificate for” replace the words “above ground works” in Condition B45 with the words as follows:

“Stage 1 above ground works and Stages 2, 3 and 4”

PART C – PRIOR TO COMMENCEMENT OF WORKS

1. Immediately after the words “comprising the Construction Certificate” and before the comma in Condition C2(4) adding the words as follows:

“for Stages 1, 2, 3 and 4”
