

**ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

**MODIFICATION (MOD72-6-2006) OF DEVELOPMENT CONSENT (DA 71-3-2004)**

**MIXED USE DEVELOPMENT**

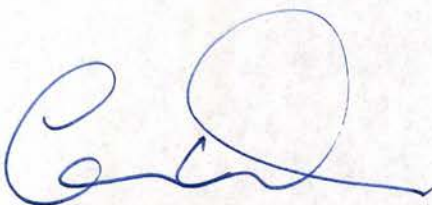
**PURSUANT TO SECTION 80 OF THE ENVIRONMENTAL PLANNING AND  
ASSESSMENT ACT 1979**

**(FILE NO. 9043386)**

I, Chris Wilson, Executive Director, Department of Planning, as delegate of the Minister for Planning, under Instrument of Delegation dated 5 April 2006, pursuant to Section 96 (1A) of the *Environmental Planning & Assessment Act, 1979*, modify the development consent referred to in the attached Schedule 1 in the manner set out in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To encourage good urban design and maintain the amenity of the local area.
- (2) To ensure compliance with the Land and Environment Court Consent Orders



Chris Wilson  
Executive Director

Sydney, 1 SEPTEMBER 2006



**SCHEDULE 1****PART A—TABLE**

<b>Application Number:</b>	MOD 72-6-2006 modifying DA 71-3-2004
<b>Application made by:</b>	Kich Constructions Pty Ltd Planet Homes, P.P. Box 3700 North Strathfield, NSW, 2137
<b>On land comprising:</b>	59-61 Shoal Bay Road, Shoal Bay
<b>Local Government Area</b>	Port Stephens
<b>For the carrying out of:</b>	State Significant Development
<b>Section 96 (1A) Application</b>	MOD 72-6-2006 to modify DA71-3-2004in the following manner <ul style="list-style-type: none"> <li>▪ Comply with the Building Code of Australia and the Australian Standards</li> <li>▪ To ensure compliance with the L &amp; E Court Consent Orders</li> </ul>
<b>Development consent granted by:</b>	Minister Assisting the Minister for Infrastructure and Planning,
<b>On:</b>	31 January, 2005
<b>Type of development:</b>	State Significant Development
<b>S.119 public inquiry held:</b>	No
<b>As modified:</b>	N/A

**PART B—NOTES RELATING TO THE MODIFICATION OF DEVELOPMENT CONSENT NO. MOD 72-6-2006*****Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

***Appeals***

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the Environmental Planning and Assessment Act, 1979. The right to appeal is available within 12 months after the date on which the applicant received this notice.

***Appeals—Third Party***

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

***Legal notices***

Any advice or notice to the consent authority shall be served on the Director-General.



## **PART C—DEFINITIONS**

The definitions within this modification are consistent with the definitions in Schedule 1 of the consent to development application.



## SCHEDULE 2

**MODIFICATION (MOD 72-6-2006) OF DEVELOPMENT CONSENT TO  
DEVELOPMENT APPLICATION NO. 71-03-2004**

The development consent is modified as follows:

Delete condition A and insert condition 2A:

- 2.A** The development shall be generally in accordance with development application number DA 71-03-2004 submitted by the applicant on 25 March 2004, and in accordance with the supporting plans and documentation submitted with that application, including the following:

Statement of Environmental Effects entitled " <i>Proposed Mixed Use Commercial, Residential and Serviced Apartment Development</i> " prepared by Synergy Environmental Planning Pty Ltd, in association with Gibbon Hamor & Associates.			
Architectural Drawings prepared by Aleksandar Design Group Pty Ltd			
Drawing No.	Name of Plan	Date	Issue
S96 01	BASEMENT PLAN	28 08 2006	C
S96 02	GROUND FLOOR PLAN	28 08 2006	D
S96 03	LEVEL 01 PLAN	28 08 2006	B
S96 04	LEVEL 02 PLAN	28 08 2006	C
S96 05	ROOF PLAN	28 08 2006	C
S96 08	WEST ELEVATION & SECTION CC''	28 08 2006	C
S96 07	NORTH & SOUTH ELEVATIONS	28 08 2006	C
S96 09	EAST ELEVATION	28 08 2006	C
S96 06	SECTIONS AA & BB	28 08 2006	C
L01C	LANDSCAPE DA PLAN – GROUND FLOOR		
L02C	LANDSCAPE PLAN – FIRST FLOOR		
L04C	LANDSCAPE PLAN – ROOF		

Delete condition 11 and insert condition 11A:

- 11A** The proposed external materials and finishes, including colours, are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape. **External finishes to all roof top structures are to be of dark recessive colours.**