

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 dated 4 April 2013, I approve the modification of the Project Application referred to in Schedule 1, subject to the conditions in Schedule 2.

Chris Wilson
Executive Director
Development Assessment Systems & Approvals

Sydney

2013

SCHEDULE 1

Project Approval:

MP 09_0078 granted by the Planning Assessment Commission on 18 June 2010

For the following:

Project Approval for the construction of a new mixed use retail, commercial and residential building with ancillary retail uses consisting of two towers (east tower maximum 133.0 metres AHD and west tower maximum 79.5 metres AHD) located above a podium accommodating:

- floor space comprising 623 residential apartments;
- retail floor space comprising a food court, speciality retail, supermarket, and a gymnasium;
- construction of terraces (landscaped platforms), which rise from the plaza to the podium level 2 of the new building on Block 2;
- installation of a heliostat system (consisting of mirrors which are orientated to focus light onto the landscaped platforms);
- construction of the surrounding public domain; and
- stratum subdivision of the proposal.

Modification:

MP 09_0078 MOD 6: Modification includes:

- Amendment to the wording of conditions A2, B4, E2, E4, E8, E12, F1 and F13; and
- Deletion of condition E1 and E13.

SCHEDULE 2

CONDITIONS

The above approval is modified as follows:

- a) *Amend Condition A2 by the deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

A2 Development in Accordance with Plans and Documentation

~~Subdivision Plans prepared for the Section 75W Application by Denny Linker & co., dated 2 December 2011 (Issue 32)~~

Subdivision Plans prepared for the Section 75W Application by Denny Linker & co., dated 7 December 2012

- b) *Amend Condition B4 by the deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

B4 Public Art

High quality art work must be provided within the development in publicly accessible locations, ~~including near main entrances, lobbies, and on street frontages,~~ in accordance with the ~~Central Sydney DCP 1996 and the Public Art Policy,~~ **as approved by Council.** Consultation must be undertaken with Council and details of the art work must be submitted to and approved by Council prior to the relevant Construction Certificate being issued.

All public art is to be provided, installed and completed prior to the issue of an Occupation Certificate **the last occupation certificate for any part of the building on Block 2.**

- c) *Condition E1 is deleted.*

~~E1 — Amendments to Subdivisions Plan~~

~~Lot 310 is to be consolidated with Lot 305~~

- d) *Amend Condition E2 by the deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

E2 Restriction on Use of car and Storage Spaces

The following conditions apply to car parking and storage where those spaces affect Strata Lots:

- (a) The on-site car parking and storage spaces within lots 301, 302, 303, 308, 310, 311 and 312 are not to be used other than by a resident or **an owner or occupant** of the subject lots.
- (b) The on-site car parking spaces within lot 305, ~~306~~ & 309 are not to be used other than by an occupant, tenant or owner **or occupant** of the subject lot.
- (c) The on-site car parking and storage spaces within ~~313~~ **306** are not to be used other than by a resident or owner of **are to be used by tenants, residents, owners and occupiers of** Blocks 3, 6, 7 and 10. **On-site car parking spaces can also be used by owners or occupiers of lots 310, 311 and 312.**

- (d) The Proponent is to include restrictions on use, created pursuant to section 88B of the Conveyancing Act 1919, to Council's satisfaction addressing Conditions E2 (a) to (c) in either:
- 1) the initial deposited plan subdividing the site; or
 - 2) the appropriate strata plan/s subdividing a lot created by the plan referred to in 1).
- e) *Amend Condition E4 by the deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

E4 Access

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for ~~public access~~ and access to lifts, lobbies, fire stairs, **and** service areas, loading areas and car parking areas, and created pursuant to Section 88B of the Conveyancing Act 1919.

- f) *Amend Condition E8 by the deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

E8 Publicly Accessible Land

Rights of way, easements and positive covenants must be created over the publicly accessible land shown on the Public Domain Plan for the site to provide and maintain public access, pursuant to Section 88B of the Conveyancing Act 1919 **at times as agreed with Council and the Department.**

- g) *Amend Condition E12 by the deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

E12 Building/Strata Management Statement

Prior to the issue of a Subdivision Certificate, a Building/Strata Management Statement must be prepared which adequately details the following matters to the satisfaction of the Department ~~and Council~~:

- ~~a) The use, operation, management and arrangements for the supply of services, 'step-in' agreement, maintenance and upgrading for the Recycled Water Plant within proposed Lot 307 and associated plant, equipment and pipes;~~
 - ba)** *The use, operation, management, maintenance and upgrading for the Stormwater Detention Tank within proposed Lot 311 and associated pipes and equipment;*
 - ~~eb) The use and arrangements for the supply of services for the Central Thermal Plant within 'Superlot 2' and associated plant, equipment and pipes;~~
 - db)** *The use, management, maintenance and upgrading for the privately owned and publically accessible areas within the subdivision; and*
 - ec)** *The ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot within the subdivision.*
- h) *Condition E13 is deleted.*

~~E13 Positive Covenant for the Recycled Water Plant~~

~~A public positive covenant must be created on the subdivision, burdening proposed Lot 307 (the Recycled Water Plant) in favour of Council, requiring that the owner of the lot maintains in good functioning order, and upgrades and replaces when necessary, the Recycled Water Plant and associated plant, equipment and pipes to ensure that the Plant functions appropriately for its intended purpose. The covenant is to also include the~~

provision for Council to inspect the Lot. The covenant must be created pursuant to Section 88B of the Conveyancing Act 1919, to Council's satisfaction.

- i) Amend Condition F1 by the deletion of the struck out words and insertion of the **bold and underlined** words as follows:

F1 Vertical Green Wall and Landscaping

~~Prior to the issue of an Occupation Certificate, The owner must procure the registration of a positive covenant on the title of the land benefiting a public authority requiring the vertical green walls and landscaping be maintained, repaired and replanted where necessary in accordance with the maintenance schedule approved in Condition B17 of this approval. Prior to the issue of an Occupation Certificate, a Building Management Statement or Strata Management Statement must be provided in registrable form to the Director General for approval which requires the ongoing maintenance of all plantings, both horizontal and vertical and which maintenance is to be the responsibility of the relevant owners of the land.~~ **on the relevant titles prior to the issue of the Occupation Certificate of Lot 302 or as otherwise agreed with Council benefiting a public authority requiring the vertical green walls and landscaping be maintained, repaired and replanted where necessary in accordance with any management plan or like document approved by the Director-General, in consultation with Council.**

- j) Amend Condition F13 by the deletion of the struck out words and insertion of the **bold and underlined** words as follows:

F13 Publicly Accessible Areas Management Plan

~~A Management Plan for public accessible areas must be prepared in consultation with Council officers, in accordance with the Second Deed of Variation of Owner's Approval Deed dated 26 June 2009. The Management Plan must be prepared, publicly exhibited and approved by the Council prior to the issue of an Occupation Certificate, or the use commencing, whichever is the earlier.~~

~~The Management Plan shall include opportunities for use of the Lower Courtyard for markets and community events.~~

Any Management Plan for public accessible areas may be prepared in stages to accord with the creation of any rights of way, easements and positive covenants as referred to in condition E8 for the relevant publicly accessible areas and must be prepared in consultation with Council officers and its requirements, in accordance with the Second Deed of Variation of Owner's Consent Deed dated 26 June 2009.