



09389
9 July 2014

Carolyn McNeally
Acting Secretary
Department of Planning and Environment
33 Bridge Street
SYDNEY NSW 2000

Attention: Cameron Sargeant

Dear Cameron

**MP09_0167 SECTION 75W MODIFICATION
45 MACQUARIE STREET, PARRAMATTA (V BY CROWN)**

This application has been prepared on behalf of Crown Landmark Pty Ltd (Crown) under the now-repealed provisions of Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify the approval granted to MP09_0167 for a mixed use development as 45-47 Macquarie Street, Parramatta (the site).

Approval for MP09_0167 was granted by the Planning and Assessment Commission (PAC) on 28 October 2011. Recently on 26 June 2012, the PAC granted approval to a Section 75W modification (MOD2) to the approved development.

This Section 75W (MOD3) seeks to modify Condition A16 of the approval granted by the PAC to ensure that Condition A16 reflects the original wording of the condition in the draft set of conditions dated 5 March 2014 (see **Attachment A**) provided by the Department of Planning and Environment (DPE) to the applicant.

The proposed modification will ensure consistency between the Conditions (Schedule 2), and Schedule 3 (Statement of Commitments) of the approval granted to MOD2 by the PAC, and allow for a construction certificate for further construction on the site to be obtained in a timely manner. The proposed modification will not result in any material change to the nature of the consent or any environmental impact. Further detail is provided below.

1.0 CONDITION A16 – DESIGN MODIFICATIONS

Condition A16 requires a number of design modifications to be made to the approved development (to the satisfaction of the Director-General (now Acting Secretary)) prior to issue of a Construction Certificate for above ground works.

The wording of the condition in the draft set of conditions (see **Attachment A**) provided to the applicant by the DPE was as follows:

A16 DESIGN MODIFICATIONS

The architectural plans prepared by AJ&C Architects and the landscape plans prepared by TaylorBrammer shall be modified to the satisfaction of the Director-General for approval prior to the issue of a Construction Certificate for above ground works to:

- *Remove all serviced apartments proposed between levels 4 and 11, and conversion of these serviced apartments to residential apartments;*

- *Remove all residential apartments located on levels 1 to 3, and conversion of the residential apartments to serviced apartments;*
- *Increase the size of apartments 1.06, 1.07, 2.06 and 2.07 from 36.7 m² to 38.5 m² to provide compliance with the requirements of the Residential Flat Design Code;*
- *Convert apartment numbers 12.16 and 13.16 from 1-bedroom apartments to studio apartments; and*
- *Revise the ground level landscaping to ensure compliance with the requirements of the Parramatta Public Domain Guidelines and Parramatta Council's Street Tree Masterplan 2011.*

Consistent with the DPE's policy, the applicant was given the opportunity to review the draft set of conditions, and make comments as appropriate to ensure that the final approval reflected a workable solution to managing construction and development on the site. The applicant provided feedback on Condition A16 as worded in the draft conditions, and requested minor changes in relation to the arrangement of serviced apartments and mechanisms to separate the serviced apartment component of the development from the residential apartment component.

However, when the draft Instrument of Modification (see **Attachment B**) was forwarded by the DPE to the PAC, Condition A16 was amended to add two additional requirements (which had not previously been discussed with the applicant) as shown in ***bold italics*** below:

A16 Design Modifications

The architectural plans prepared by AJ&C Architects and the landscape plans prepared by TaylorBrammer shall be modified to satisfaction of the Director-General for approval prior to the issue of a Construction Certificate for above ground works to:

- *Remove the serviced apartments located on level 8 and conversion of these apartments to residential apartments.*
- *Limit the serviced apartments to 35 serviced apartments located with levels 2 to 7 of 'Block D'*
- *Amend drawings DA2102 (Revision 16), DA 2102 (Revision 16), and DA2103 (Revision 18) to:*
 - *Install an automatic fail-open security door adjacent to the 'Block D' lift core; and*
 - *Delete the access door located within the southern corridor of 'Block d' as per plan provided in Attachment A*
- *Convert apartments number 12.16 and 13.16 from 1-bedroom apartments to studio apartments;*
- ***Identify the materials and finishes for, and the detailed design of, the walkways, balustrades and retaining walls within the archaeological display area. The detailed design of the abovementioned elements must be undertaken in consultation with the Heritage Branch, OEH;***
- ***Identify the detailed design of the environmental management system including, moisture movements monitoring and reactive conservation processes for the archaeological display area. The design of the environmental management system must be undertaken in consultation with the Heritage Branch, OEH; and***
- *Revise the ground level landscaping to ensure compliance with the requirements of the Parramatta Public Domain Guidelines and Parramatta Council's Street Tree Master plan 2011.*

The approval issued by the PAC (see **Attachment C**) was consistent with the DPE's draft Instrument of Modification other than to correct some errors in relation to residential and serviced apartment unit numbers.

It appears that the additional requirements inserted by the DPE into Condition A16 (after the draft conditions had been provided to the applicant) were intended to reflect the comments made by the Heritage Council during the exhibition of MOD2. However, the Heritage Council's comments had already been taken into account, and the applicant had agreed to satisfy the Heritage Council's requests by amending its Statement of Commitments (see Preferred Project Report dated December 2013). Schedule 3 of the approval granted by the PAC reflects the revised Statement of Commitments and provides for the satisfaction of the Heritage Council's requirements '*prior to the construction certificate for the archaeological display area being issued*'.

The key difference between the wording of the requirements in the Statement of Commitments, and those in Condition A16 is the time in which the requirements need to be satisfied. The Statement of Commitments intentionally linked the satisfaction of the Heritage Council's requirements to the issue of the construction certificate for the archaeological display area. Finalisation of design and management of this area is still underway and will require ongoing discussions with the Heritage Council. The area is currently protected and no work is being undertaken in the immediate vicinity of the archaeological relics at present.

2.0 PROPOSED MODIFICATION

It is requested that Condition A16 be amended to delete the following requirements:

- *Identify the materials and finishes for, and the detailed design of, the walkways, balustrades and retaining walls within the archaeological display area. The detailed design of the abovementioned elements must be undertaken in consultation with the Heritage Branch, OEH; and*
- *Identify the detailed design of the environmental management system including, moisture movements monitoring and reactive conservation processes for the archaeological display area. The design of the environmental management system must be undertaken in consultation with the Heritage Branch, OEH.*

This will allow for a construction certificate for above ground work to be issued whilst design and management issues associated with the archaeological heritage display area are being finalised. It will also ensure consistency between Schedules 2 and 3 of the approval.

The modification does not result in any material change to the approval or any environmental impacts. The Heritage Council's requirements will be satisfied prior to work in relation to the archaeological display area commencing.

As the DPE is aware, the approval for MOD2 has taken an extended amount of time and construction on the site is currently stalled until a construction certificate in accordance with MOD2 can be issued. The DPE is therefore requested to issue its approval for this Section 75W application (MOD 3) as soon as possible.

Should you have any queries about this matter, please do not hesitate to contact me on 94094942 or kshmuel@jbaurban.com.au.

Yours faithfully



Kim Shmuel
Principal Planner