

# Notice of Modification

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

As delegate of the Minister for Planning under delegation dated 16 February 2015, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthea Sargeant  
**Executive Director**  
**Key Sites and Industry Assessments**

Sydney 27 July 2016

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### SCHEDULE 1

**Development Approval:** MP 09\_0220 granted by the Deputy Director-General Development Assessment and Systems Performance on 17 August 2016

**For the following:** Stage 1 of the Nepean Health Precinct mixed use development including:

- construction of two buildings for commercial, retail and serviced apartment purposes;
- car parking; and
- landscaping, site works and services.

**Applicant:** Aesthete No.3 Pty Ltd

**Consent Authority:** Minister for Planning

**The Land:** 11 Barber Avenue, Kingswood (Lot 100 DP 701623)

**Modification:** MP 09\_0220 MOD 3: the modification includes:

- extend the lapse date of consent by two years;
- delay the timing of the payment of developer contributions to works following excavation, shoring, piling and underpinning;
- update the site address to '11 Barber Street, Kingswood'

## SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold-stuck-out~~** words/numbers as follows:

|                            |                                                                                                                                                                                                                                                                                            |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application No.:</b>    | MP 09_0220                                                                                                                                                                                                                                                                                 |
| <b>Proponent:</b>          | Aesthete No.3 Pty Ltd                                                                                                                                                                                                                                                                      |
| <b>Approval Authority:</b> | Minister for Planning and Infrastructure                                                                                                                                                                                                                                                   |
| <b>Land:</b>               | <b><u>Corner of Great Western Highway, Parker Street, Barber Avenue, Kingswood (Lot 100 DP 701623, Lot 1 DP 1093052, Lot 4-6 DP 29524) 11 Barber Avenue, Kingswood (Lot 100 DP 701623)</u></b>                                                                                             |
| <b>Project:</b>            | Stage 1 of the Nepean Health Precinct Mixed Use Development, including: <ul style="list-style-type: none"><li>• construction of two buildings for commercial, retail and serviced apartment purposes;</li><li>• car parking; and</li><li>• landscaping, site works and services.</li></ul> |

- (b) The Definitions are amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold-stuck-out~~** words/numbers as follows:

### DEFINITIONS

|                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Advisory Notes   | Advisory information relating to the approved project but do not form a part of this approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| BCA              | Building Code of Australia                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Construction     | Any works, including earth and building works                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Council          | Penrith City Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Department       | Department of Planning & Infrastructure or its successors                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Director-General | Director-General of the Department of Planning & Infrastructure, or nominee                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| EA               | Environmental Assessment titled <i>Nepean Health Precinct Mixed Use Development Environmental Assessment and Appendices</i> prepared by <i>Cityscape Planning + Projects</i> , dated November 2010                                                                                                                                                                                                                                                                                                                                                                                                                 |
| EP&A Act         | <i>Environmental Planning and Assessment Act 1979</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| EP&A Regulation  | <i>Environmental Planning and Assessment Regulation 2000</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| FSR              | Floor space ratio means the ratio of the floor space of a building to the site area of the land on which the building is proposed to be erected                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| GFA              | Gross floor area means floor space which includes all wall thicknesses, ducts, vents, staircases and lift wells, but does not include: <ul style="list-style-type: none"><li>(a) any car parking space in a building, being a space provided to meet the standards required by the responsible authority (but not car parking space provided in excess of those standards), or any internal access to that car parking space;</li><li>(b) space used for the loading or unloading of goods; or</li><li>(c) lift towers, cooling towers, machinery and plant rooms and any storage space related thereto.</li></ul> |

|                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Incident                         | A set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this approval                                                                                                                                                                                                                                                                                       |
| Major Development SEPP           | State Environmental Planning Policy (Major Development) 2005                                                                                                                                                                                                                                                                                                                                                                                                             |
| Minister PPR                     | Minister for Planning & Infrastructure, or nominee<br>Preferred Project Report titled <i>Nepean Health Precinct Mixed Use Development Preferred Project Report</i> and Appendices prepared by <i>Cityscape Planning + Projects</i> , dated May 2011                                                                                                                                                                                                                      |
| Project                          | The project and the accompanying plans and documentation described in Schedule 2, Terms of Approval.                                                                                                                                                                                                                                                                                                                                                                     |
| Proponent                        | Aesthete No.3 Pty Ltd                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Reasonable and Feasible          | Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build                                                                                                                                                  |
| Residential Accommodation        | Residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following: attached dwellings, boarding houses, dual occupancies, dwelling houses, group homes, hostels, multi dwelling housing, residential flat buildings, rural workers' dwellings, secondary dwellings, semi-detached dwellings, seniors housing, shop top housing, but does not include tourist and visitor accommodation or caravan parks. |
| Serviced Apartment               | Serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents. Note. Serviced apartments are a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.                                             |
| Site Area                        | Means an allotment of land the subject of an application excluding any land upon which the development to which the application relates is not permitted by or under this Concept Plan.                                                                                                                                                                                                                                                                                  |
| Stage 1 Statement of Commitments | Refer to Major Project MP 09_0220, Stage 1 Project Application<br>The Proponent's Statement of Commitments in Schedule 3                                                                                                                                                                                                                                                                                                                                                 |
| Storey                           | Storey in relation to a building does not include a floor or level of the building used exclusively for the purposes of car parking, storage or laundry facilities, or any combination of these purposes, where the ceiling is not greater than 500 millimetres above ground level.                                                                                                                                                                                      |
| Subject Site                     | <b><u>Corner of Great Western Highway, Parker Street, Barber Avenue, Kingswood (Lot 100 DP 701623, Lot 1 DP 1093052, Lot 4-6 DP 29524) 11 Barber Avenue, Kingswood (Lot 100 DP 701623)</u></b>                                                                                                                                                                                                                                                                           |

- (c) Schedule 2 Part A1 – Administrative Conditions Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold stuck out~~** words/numbers as follows:

## **A2 Development in Accordance with the Plans and Documentation**

The development will be undertaken in accordance with the following documents and plans:

|                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Environmental Assessment Report titled <i>Nepean Health Precinct Mixed Use development Environmental Assessment</i> and Appendices prepared by Cityscape Planning + Projects, dated November 2010;</b> |
| <b>Preferred Project Report titled <i>Nepean Health Precinct Mixed Use development Preferred Project Report</i> and Appendices prepared by Cityscape Planning + Projects, dated May 2011</b>              |
| <b>Section 75W Modification and Appendices prepared by <i>Cityscape Planning + Projects</i> dated October 2012.</b>                                                                                       |

**Section 75W Modification and Appendices prepared by Cityscape Planning + Projects dated June 2016.**

**Architectural (or Design) Drawings prepared by TURNER + ASSOCIATES**

| Drawing No. | Issue | Name of Plan                |
|-------------|-------|-----------------------------|
| EA11        | K     | BASEMENT 02                 |
| EA12        | K     | BASEMENT 01                 |
| EA13        | K     | LOWER GROUND PLAN           |
| EA14        | J     | GROUND PLAN                 |
| EA15        | I     | LEVEL 1                     |
| EA16        | H     | LEVEL 2                     |
| EA17        | H     | LEVEL 3                     |
| EA18        | I     | LEVEL 4                     |
| EA19        | I     | LEVEL 5                     |
| EA20        | I     | LEVEL 6 / Roof Plan         |
| EA30        | I     | NORTH ELEVATION             |
| EA31        | I     | SOUTH ELEVATION             |
| EA32        | H     | EAST ELEVATION              |
| EA40        | I     | SECTION AA                  |
| EA41        | I     | SECTION BB                  |
| EA42        | I     | SECTION CC                  |
| EA44        | H     | SECTION EE / WEST ELEVATION |
| EA45        | I     | SECTION FF                  |

**Architectural (or Design) Drawings prepared by TURNER + ASSOCIATES**

| Drawing No. | Issue | Name of Plan                      | Date     |
|-------------|-------|-----------------------------------|----------|
| LC-02       | C     | LOWER GROUND FLOOR LANDSCAPE PLAN | 08/03/13 |
| LC-03       | C     | GROUND FLOOR LANDSCAPE PLAN       | 08/03/13 |

except for:

- 1) any modifications which are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
  - 2) otherwise provided by the conditions of this approval.
- (d) Schedule 2 Part A1 – Administrative Conditions Condition A6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold stuck out~~** words/numbers as follows:

**A6 Lapsing of Approval**

Approval of the Project Application shall lapse **5 7** years after the determination date unless construction work authorised by the Project Approval has physically commenced.

- (e) Schedule 2 Part B – Prior to Issue of Construction Certificate Condition B15 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold stuck-out~~** words/numbers as follows:

#### **B15 Lapsing of Approval**

Prior to the issue of a Construction Certificate (**excluding a Staged Construction Certificate for excavation, shoring, piling and underpinning**) the Proponent is to pay monetary contributions to Penrith City Council in accordance with the following Section 94 Contributions Plan identified in the table below:

| <b><i>Contribution Plan Name</i></b> | <b><i>Amount</i></b> |
|--------------------------------------|----------------------|
| <i>Cultural Facilities</i>           | <i>\$10,713.60</i>   |
| <i>Footpaths</i>                     | <i>\$6,998.40</i>    |
| <i>Local Open Space</i>              | <i>\$45,288.00</i>   |
| <i>District Open Space</i>           | <i>\$125,280.00</i>  |
| <i>Neighbourhood Centre</i>          | <i>\$11,836.00</i>   |
| <i>Total</i>                         | <i>\$200,166.80</i>  |

**End of Modification  
(MP09\_0220 MOD 3)**