

Modification of Development Consent

Section 96(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 10 November 2014, I, Executive Director, Infrastructure and Industry Assessments approve the modification application of the development consent referred to in Schedule 1, subject to the conditions in Schedules 2.

**Executive Director
Infrastructure and Industry Assessments**

Sydney

2014

SCHEDULE 1

Project Approval:	SSD 5708
Applicant:	City West Housing Pty Ltd
Consent Authority:	Minister for Planning
Land:	Lot 3 - DP 1175706
Development:	Construction of a part six (6), part seven (7) storey plus basement, residential flat building to be used for affordable housing for 88 apartments and 39 car spaces and landscaping and associated site works
Modifications:	SSD 5708 MOD 1: Modifications to include: • modify Condition D1 to extend construction hours; • replace Class 1 bicycle lockers with Class 2 bicycle racks in the basement and increase the total number of bicycle spaces from 88 to 94; • various internal and external amendments; and • modify conditions B15, C10, D12 and Part E conditions E1 to E22 to implement a staged Occupation Certificate process.

SCHEDULE 2

1. In Schedule 2 Part A, **Condition A2** is amended by the insertion of **bold** and **underlined** words/numbers and deletion of ~~struck-out~~ words/numbers as follows:

Development in Accordance with Plans and Documents

A2 The Applicant shall carry out the project generally in accordance with the:

- a) Environmental Impact Statement prepared by Architectus, dated April 2013;
- b) Response to Submissions, prepared by Architectus, dated July 2013 **as modified by the Section 96 Assessment Report (Issue E dated 13 October 2014) the Response to Submissions letter prepared by Architectus dated 19 November 2014**; and
- c) following drawings, except for:
 - i) any modifications which are Exempt' or Complying Development;
 - ii) otherwise provided by the conditions of this consent.

Architectural drawings prepared by Architectus			
Drawing No.	Revision	Name of Plan	Date
DA00 – 001	C <u>E</u>	Survey plan & Infrastructure Works	19/08/13 <u>14/09/14</u>
DA00 – 002	C <u>E</u>	2008 Concept Plan Approved use & Envelopes	19/08/13
DA00 – 003	C <u>E</u>	Site Plan	19/08/13 <u>14/09/14</u>
DA00 – 004	C <u>E</u>	Site Plan Analysis	19/08/13 <u>14/09/14</u>
DA01 - 001	C <u>E</u>	Basement Plan	19/08/13 <u>14/09/14</u>
DA01 - 002	D <u>E</u>	Ground floor	19/08/13 <u>14/09/14</u>
DA01 - 003	C <u>E</u>	Level 1	19/08/13 <u>14/09/14</u>
DA01 - 004	D <u>E</u>	Level 2	19/08/13 <u>14/09/14</u>
DA01 - 005	D <u>E</u>	Level 3	19/08/13 <u>14/09/14</u>
DA01 - 006	D <u>E</u>	Level 4	19/08/13 <u>14/09/14</u>
DA01 - 007	D <u>E</u>	Level 5	19/08/13 <u>14/09/14</u>
DA01 - 008	C <u>E</u>	Level 6	19/08/13 <u>14/09/14</u>
DA01 - 009	C <u>E</u>	Roof Plan	19/08/13 <u>25/11/14</u>

Architectural drawings prepared by Architectus			
Drawing No.	Revision	Name of Plan	Date
DA01 - 010	D <u>F</u>	Gross Floor Area	19/08/13 <u>14/09/14</u>
DA02 - 001	D <u>G</u>	North Elevation	19/08/13 <u>25/11/14</u>
DA02 - 002	D <u>F</u>	South Elevation	19/08/13 <u>25/11/14</u>
DA02 - 003	D <u>G</u>	East Elevation	19/08/13 <u>25/11/14</u>
DA02 - 004	D <u>F</u>	West Elevation	19/08/13 <u>14/09/14</u>
DA02 – 005	D <u>E</u>	Context Elevation & Section	19/08/13 <u>14/09/14</u>
DA03 – 001	D <u>F</u>	Longitudinal Section	19/08/13 <u>14/09/14</u>
DA03 – 002	D <u>F</u>	Cross Section B – B	19/08/13 <u>14/09/14</u>
DA03 – 003	D <u>F</u>	Cross Section C – C	19/08/13 <u>14/09/14</u>
DA09 – 015	C <u>E</u>	Adaptable Units (Type K)	19/08/13 <u>14/09/14</u>
DA09 – 016	C <u>E</u>	Adaptable Units (Type F)	19/08/13 <u>14/09/14</u>
DA09 - 017	C <u>E</u>	Adaptable Units (Type C)	19/08/13 <u>14/09/14</u>
Landscape drawings prepared by Arcadia			
Drawing No.	Revision	Name of Plan	Date
13_108_DA_01 <u>13_108_S96_01</u>	A <u>B</u>	Site Context	25/03/2013 <u>31/07/2014</u>
13_108_DA_02 <u>13_108_S96_02</u>	A <u>B</u>	Concept Diagrams	25/03/2013 <u>31/07/2014</u>
13_108_DA_03 <u>13_108_S96_03</u>	A <u>B</u>	Materials Strategy	25/03/2013 <u>31/07/2014</u>
13_108_DA_04 <u>13_108_S96_04</u>	A <u>B</u>	Planting Strategy	25/03/2013 <u>31/07/2014</u>
13_108_DA_05 <u>13_108_S96_05</u>	A <u>B</u>	Landscape Precedents	25/03/2013 <u>31/07/2014</u>
13_108_DA_06 <u>13_108_S96_06</u>	A <u>B</u>	Ground floor landscape design	25/03/2013 <u>31/07/2014</u>
13_108_DA_07 <u>13_108_S96_07</u>	A <u>B</u>	Roof terrace landscape design	25/03/2013 <u>31/07/2014</u>
13_108_DA_08	A	Landscape Sections	25/03/2013

Architectural drawings prepared by Architectus			
Drawing No.	Revision	Name of Plan	Date
<u>13 108 S96 08</u>	<u>B</u>		<u>31/07/2014</u>
13 108 DA 09 <u>13 108 S96 09</u>	A <u>B</u>	Indicative Planting Palette	25/03/2013 <u>31/07/2014</u>
13 108 DA 10 <u>13 108 S96 10</u>	A <u>B</u>	Indicative Planting Palette	25/03/2013 <u>31/07/2014</u>
13 108 DA 11 <u>13 108 S96 11</u>	A <u>B</u>	Landscape Ground Floor	25/03/2013 <u>31/07/2014</u>
13 108 DA 12 <u>13 108 S96 12</u>	A <u>B</u>	Landscape Roof Terrace	25/03/2013 <u>31/07/2014</u>
13 108 DA 13 <u>13 108 S96 13</u>	A <u>B</u>	Landscape Details and Specifications	25/03/2013 <u>31/07/2014</u>

2. In Schedule 2 Part B, **Condition B6** is amended by the insertion of **bold** and **underlined** words/numbers and deletion of ~~struck-out~~ words/numbers as follows:

Number of Bicycle Spaces

B6 A minimum of 88 bicycle spaces are to be provided for the development. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the basement car park.

The layout, design and security of bicycle facilities either on-street or off street must comply with the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities except that:

- i) all bicycle parking for occupants of residential buildings must be ~~Class 1~~ **Class 2 type** bicycle **storage** lockers, and
- ii) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

3. In Schedule 2 Part B, **Condition B15** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Public Domain Plan

B15 The Public Domain Plan accompanying this Development Application has not been approved by this consent

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for any new building work (including internal refurbishments) excluding approved preparatory, demolition or shoring work.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must be made concurrently with the Alignment Levels application. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual ~~before~~ **within three months of issue of the first any Occupation Certificate or prior to issue of the final Occupation Certificate** ~~is issued~~ in respect of the development or before the use commences, whichever is earlier.

Note: A Public Domain Works Guarantee deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Road Opening Permit for works on the public way being issued.

The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

4. In Schedule 2 Part C, **Condition C10** is amended by the insertion of **bold** and **underlined** words as follows:

Inspections of Railcorp Infrastructure and property

- C10 Prior to the commencement of works, on completion of excavation/ground penetration and **within three months of issue of the first Occupation Certificate or** prior to the issue of the **final** Occupation Certificate, **whichever occurs first**, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.

5. In Schedule 2 Part D, **Condition D1** is amended by the insertion of **bold** and **underlined** words/numbers as follows:

Hours of Work

- D1 The hours of construction and work on the development must be as follows:
- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools etc.) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
 - (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Building Sites Noise Code* and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".
 - (c) **Notwithstanding (a) above:**
 - (i) **internal fit out works within the enclosed facade are permitted to be carried out between 6.00am and 12.00am midnight, seven days a week; and**
 - (ii) **the completion of external soft landscaping works may be undertaken between 7.00am and 8.00pm, Mondays to Fridays**

Works within the extended hours must comply with the following requirements:

- (a) All work is to be internal, within the fully completed external shell of the building with all external windows and doors fully installed and remaining closed during the works, with the exception of soft landscaping (between 7.00am and 8.00pm, Monday to Friday);
- (b) Works are to include the installation of internal fit-out and fit out and fixtures only such as plasterboard, tiles and timberwork, the installation of internal services and fittings, painting, cleaning, and defect completion;
- (c) No works are permitted on the façade of the building;
- (d) No deliveries to the site and no heavy vehicle movements within or on/off the site;
- (e) No use of cranes; and
- (f) No use of floodlighting or additional lighting over and above current lighting levels required for safety and access.

6. In Schedule 2 Part E, Condition E1 is amended by the insertion of **bold** and **underlined** words as follows:

Design Verification Statement SEPP 65 on completion

E1 Prior to the issue of any Occupation Certificate **for dwellings**, the Applicant shall submit to the PCA a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development.

7. In Schedule 2 Part E, Condition E2 is amended by the insertion of **bold** and **underlined** words as follows:

Mechanical Ventilation

E2 Following completion, installation and testing of all the mechanical ventilation systems, the Applicant shall provide evidence to the satisfaction of the PCA, prior to the issue of any Occupation Certificate **for dwellings**, that the installation and performance of the mechanical systems complies with:

- a) The Building Code of Australia;
- b) Australian Standard AS1668 and other relevant codes;
- c) The development consent and any relevant modifications; and,
- d) Any dispensation granted by the New South Wales Fire Brigade.

8. In Schedule 2 Part E, Condition E3 is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck out~~ words as follows:

Road Damage

E3 The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the Subject Site as a result of construction works associated with the approved development, is to be met in full by the Applicant/developer **within three months of issue of the first Occupation Certification or** prior to the issue of ~~any the final~~ **Occupation Certificate, whichever occurs first.**

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

9. In Schedule 2 Part E, **Condition E4** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Registration of Easements

- E4 **Within three months of issue of the first Occupation Certificate or** prior to the issue of ~~any~~ **the final** Occupation Certificate, **whichever occurs first**, the Applicant shall provide to the PCA evidence that all matters required to be registered on title including easements required by this consent, approvals, and other consents have been lodged for registration or registered at the NSW Land and Property Information.

10. In Schedule 2 Part E, **Condition E5** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Sydney Water Compliance

- E5 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the PCA prior to issue of the ~~the~~ **any** Occupation Certificate **for dwellings**.

11. In Schedule 2 Part E, **Condition E6** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Post-construction Dilapidation Report

- E6 **Within three months of issue of the first Occupation Certificate or** prior to the issue of ~~an~~ **the final** occupation certificate, **whichever occurs first**:

- a) The Applicant shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.
- b) The report is to be submitted to the PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
 - i) compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions and
 - ii) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
- c) A copy of this report is to be forwarded to the Council.

12. In Schedule 2 Part E, **Condition E7** is amended by the insertion of **bold** and **underlined** words as follows:

Fire Safety Certification

- E7 Prior to the issue ~~a~~ any Occupation Certificate **for dwellings** a Fire Safety Certificate shall be obtained for all the Essential Fire or Other Safety Measures forming part of

this consent. A copy of the Fire Safety Certificate must be submitted to the relevant authority and council. And prominently displayed in the building

13. In Schedule 2 Part E, **Condition E8** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Structural Inspection Certificate

E8 A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate **for dwellings** and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- a) The site has been periodically inspected and the Certifier is satisfied that the structural works is deemed to comply with the final design drawings.
- b) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

14. In Schedule 2 Part E, **Condition E9** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Compliance with BASIX Certificate

E9 Prior to the issue of the any Occupation Certificate **for dwellings**, the applicant shall implement the commitments outlined in the BASIX Certificate 469854M.

15. In Schedule 2 Part E, **Condition E10** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Street Numbering

E10 Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages in accordance with the council's policy, **within three months of issue of the first Occupation Certificate or** prior to the **issue of the final Occupation Certificate for** occupation of the building(s) or commencement of the use, **whichever occurs first**. If street numbers or a change to street numbers are required, a separate application shall be made to the Council.

16. In Schedule 2 Part E, **Condition E11** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Car parking restrictions

E11 **Prior to the issue of any Occupation Certificate for dwellings.** The on-site car parking spaces, are not to be used by those other than an occupant or tenant (or their invitee) of the subject building. In all cases no occupant, tenant or registered proprietor of the Subject Site or part thereof shall enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or registered proprietor of the building.

17. In Schedule 2 Part E, **Condition E12** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Intercom for Visitors

- E12 Where a boomgate or barrier control is in place the visitor spaces must be accessible to visitors by the location of an intercom (or card controller system) at the car park entry, wired to all units (prior to ~~an~~ any Occupation Certificate for dwellings ~~is being~~ issued or the use commencing, whichever is earlier).

The intercom must comply with 'Australian Standard AS 1428.2- 1992: Design for access and mobility – Enhance and additional requirements – Building and facilities Sections 22 and 23.

18. In Schedule 2 Part E, **Condition E13** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Signage to indicate non participation in Resident Parking Permit Scheme

- E13 Signs reading 'all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council' must be located in prominent places such as at display apartments and on all directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to ~~an~~ any Occupation Certificate for dwellings being issued and must be maintained in good order at all times.

19. In Schedule 2 Part E, **Condition E14** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Signs at Egress

- E14 Prior to the issue of any Occupation Certificate for dwellings. The following signs must be provided and maintained within the site at the point(s) of vehicular egress:
- Compelling drivers to stop before proceeding onto the public way
 - Compelling drivers to "Give Way to Pedestrians" before crossing the footway; or compelling drivers to "Give Way to Pedestrians and Bicycles" before crossing a footway on an existing or identified shared path route.

20. In Schedule 2 Part E, amend **Landscaping of the Site** to allocate a condition number as **Condition E14.A** by the insertion of **bold** and **underlined** words/numbers and deletion of ~~struck-out~~ words as follows:

Landscaping of the Site

- E14.A** All landscaping in the approved plan is to be completed within three months of the issue of the first Occupation Certificate or prior to ~~an~~ the final Occupation Certificate being issued, whichever occurs first.

21. In Schedule 2 Part E, **Condition E15** is amended by the insertion of **bold** and **underlined** words as follows:

Waste and Recycling Management

- E15 Prior to ~~an~~ any Occupation Certificate for dwellings being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

22. In Schedule 2 Part E, **Condition E16** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

As built drawings – Railcorp land

E16 **Within three months of issue of the first Occupation Certificate or** prior to the issuing of an ~~an~~ **the final** Occupation Certificate, **whichever occurs first,** the Applicant is to submit the as-built drawings to RailCorp and Council. Any encroachments into RailCorp's land are to be rectified at the Applicant's cost.

23. In Schedule 2 Part E, **Condition E17** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Restriction on Title

E17 **Within three months of issue of the first Occupation Certificate or** prior to the issue of an ~~an~~ **the final** Occupation Certificate, **whichever occurs first,** the registration of a restriction as to user **shall be registered** under Section 88B of the *Conveyancing Act 1919* (or similar restrictive covenant) to the effect that the 88 apartments will be provided as affordable housing in perpetuity.

24. In Schedule 2 Part E, **Condition E18** is amended by the insertion of **bold** and **underlined** words as follows:

Public Access

E18 An Occupation Certificate **for dwellings** may not be issued until such time as pedestrians and vehicles are legally able to access a public road from the site. Any access across lands held by another party must be secured by a Right of Way (or similar).

25. In Schedule 2 Part E, **Condition E19** is amended by the insertion of **bold** and **underlined** words as follows:

Council access

E19 An Occupation Certificate **for dwellings** may not be issued until such time as Council vehicles and staff are legally able to access the site from a public road. Any access across lands held by another party must be secured by a Right of Way (or similar).

26. In Schedule 2 Part E, **Condition E20** is amended by the insertion of **bold** and **underlined** words as follows:

Site Travel Plan

E20 A site travel plan (including travel access guide) shall be prepared, in accordance with the recommendation of the Transport Assessment report prepared by ARUP (dated 2 April 2013) prior to issue of an ~~an~~ **any** Occupation Certificate **for dwellings.**

27. In Schedule 2 Part E, **Condition E21** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Stormwater and Drainage

E21 On-site detention, treatment and re-use is encouraged.

- a) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant **within three months of issue of the**

first Occupation Certificate or prior to any the final Occupation Certificate being issued, whichever occurs first.

- b) The requirements of Sydney Water with regard to the on-site detention of stormwater must be ascertained and complied with. Evidence of compliance with Sydney Water requirements must be submitted to the Accredited Certifier within three months of issue of the first Occupation Certificate or prior to any the final Occupation Certificate being issued, whichever occurs first.
- c) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system. Evidence of the approval being granted must be submitted to the Accredited Certifier within three months of issue of the first Occupation Certificate or prior to any the final Occupation Certificate being issued, whichever occurs first.
- d) A Positive Covenant must be registered on the title for all drainage systems involving On-site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.

28. In Schedule 2 Part E, **Condition E22** is amended by the insertion of **bold** and **underlined** words and deletion of ~~struck-out~~ words as follows:

Site Audit Statement

E22 Prior to issue of any Occupation Certificate **for dwellings**, a Site Audit Statement from a NSW EPA Accredited Site Auditor is to be submitted to the Certifying Authority clearly stating that the site is suitable for the proposed use.

29. In Schedule 2 Part E, **Condition E23** is inserted by the insertion of **bold** and **underlined** words/numbers as follows:

Bicycle Parking

E23 Prior to issue of any Occupation Certificate for dwellings or Basement 1 a swinging automatically lockable door is to be installed to each bicycle parking area to secure all bicycle facilities within the bicycle parking areas of the basement car park.

END OF MODIFICATIONS TO SSD 5708 MOD 1