

Modification of Development Consent

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

As delegate of the Minister for Planning, I approve the modification application referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthony Witherdin
Director
Modification Assessments

Sydney **8 DECEMBER** 2017

SCHEDULE 1

Development Consent:	SSD 6387 granted by the Minister for Planning on 1 December 2014
For the following:	Construction of three 8-storey residential buildings above ground floor retail/commercial podiums and a three level basement structure and associated public domain works.
Applicant:	Sutherland and Associates Planning Pty Ltd
Consent Authority:	Minister for Planning
The Land:	1 Burroway Road, Wentworth Point (Lot 100 in DP 1193985)
Modifications:	SSD 6387 MOD 5: modification to include: <ul style="list-style-type: none">• provision of outdoor dining areas• establish internal and external hours of operation for retail tenancies

SCHEDULE 2

The consent (SSD 6387) is modified as follows:

- (a) Schedule 2 Part A – Administrative Conditions Condition A2 is amended by the insertion of **bold** and underlined words/numbers and deletion of ~~struckout~~ words/numbers, as follows:

Terms of Consent

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

- a) State Significant Development Application SSD 6387;
- b) Environmental Impact Statement prepared by Sutherland & Associates dated May 2014;
- c) Response to Submissions prepared by Sutherland & Associates dated September 2014;
- d) Section 96 Planning Statement prepared by Sutherland and Associates dated May 2015;
- e) Section 96(1)A Amendment to SSD 14_6387 prepared by Sutherland and Associates Planning, dated 6 June 2016, and amended by the Response to Submissions, prepared by Sutherland and Associates Planning, dated 1 December 2016;
- f) Section 96(1A) modification application (SSD 6387 MOD 5) prepared by Sutherland and Associates Planning, dated 13 April 2017, as updated by Response to Submissions and additional information dated 4 August 2017, 5 October 2017, 31 October 2017, and 21 November 2017;**
- f g)** The conditions of this consent; and
- g h)** The following drawings, except for:
 - i) any modifications which are Exempt or Complying Development;
 - ii) otherwise provided by the conditions of this consent.

Architectural (or Design) Drawings prepared by Stanisic Architects			
Drawing No.	Revision	Name of Plan	Date
DA0004	I	GROUND PLANE PLAN	01.05.15
DA0005	I	SITE PLAN	01.05.15
DA0006	I	GFA DIAGRAMS & YIELD SCHEDULE	01.05.15
DA0008	I	IMAGES 01	01.05.15
DA0009	I	IMAGES 02	01.05.15
DA0010	I	IMAGES 03	01.05.15
DA011	I	EXTERNAL MATERIALS AND FINISHES	17.07.15
DA1001	J	BASEMENT LEVEL 3	01.05.15
DA1002	J	BASEMENT LEVEL 2	01.05.15
DA1003	K	BASEMENT LEVEL 1	14.07.15
DA1201	K	LEVEL 1 (GROUND PODIUM)	21.11.16
DA1301	K	LEVEL 2	01.05.15
DA1302	J	LEVEL 3	01.05.15
DA1303	J	LEVEL 4	01.05.15
DA1304	J	LEVEL 5	01.05.15
DA1305	J	LEVEL 6	01.05.15
DA1306	J	LEVEL 7	01.05.15
DA1307	J	LEVEL 8	01.05.15
DA1308	J	LEVEL 9	01.05.15
DA1309	J	LEVEL 10	01.05.15

DA1500	J	SITE ELEVATIONS	01.05.15
DA1501	J	ELEVATIONS NORTH AND SOUTH	01.05.15
DA1502	J	ELEVATIONS BUILDING A EAST AND WEST	01.05.15
DA1503	K	ELEVATIONS BUILDING B EAST AND WEST	07.05.15
DA1504	J	ELEVATION BUILDING C EAST AND WEST	01.05.15
DA1550	K	ELEVATION BUILDING A WEST AND NORTH	07.05.15
DA1551	K	ELEVATION BUILDING A EAST AND SOUTH	07.05.15
DA1552	K	ELEVATION BUILDING B WEST AND NORTH	07.05.15
DA1553	K	ELEVATION BUILDING B EAST AND SOUTH	07.05.15
DA1554	K	ELEVATION BUILDING C WEST AND NORTH	07.05.15
DA1555	J	ELEVATION BUILDING C EAST AND SOUTH	01.05.15
DA1556	J	ELEVATION BUILDING CUTS	01.05.15
DA1557	J	ELEVATION BUILDING CUTS	01.05.15
DA1601	J	SECTION	01.05.15
DA1602	J	SECTION	01.05.15
DA3101	H	TYPE A PRE AND POST ADAPTION PLANS	01.05.15
DA3102	I	TYPE B PRE AND POST ADAPTION PLANS	01.05.15
DA3103	I	TYPE B PRE AND POST ADAPTION PLANS	01.05.15
DA3104	H	TYPE D PRE AND POST ADAPTION PLANS	01.05.15
DA8001	H	WINTER SOLAR STUDIES	05.09.14
DA8002	H	WINTER SOLAR STUDIES	05.09.14
DA8003	H	EQUINOX SOLAR STUDIES	05.09.14
DA9001	I	SEPP 65 DAYLIGHT ACCESS DIAGRAM	01.05.15
DA9002	I	SEPP 65 DAYLIGHT ACCESS DIAGRAM	01.05.15
DA9003	I	SEPP 65 NATURAL VENTILATION DIAGRAM	01.05.15
DA9004	I	SEPP 65 NATURAL VENTILATION DIAGRAM	01.05.15
SK0011	H	GBA DIAGRAMS	05.09.14
SK0001	H	SEPP 65 DIAGRAM COMMUNAL OPEN SPACE LEVEL 1 FERRY WALK	05.09.14
SK0002	H	SEPP 65 DIAGRAM COMMUNAL OPEN SPACE LEVEL 2	05.09.14
SK0003	H	SEPP 65 DIAGRAM PLANTING ON STRUCTURE	05.09.14
SK0004	H	SEPP 65 DIAGRAM DEEP SOIL	05.09.14
SK0005	H	SEPP 65 DIAGRAM TYPICAL LOWER RESIDENTIAL LEVELS SETBACKS (LEVEL 3-5)	05.09.14
SK0006	H	SEPP 65 DIAGRAM TYPICAL MID RESIDENTIAL LEVELS SETBACKS (LEVEL 6-7)	05.09.14
SK0007	H	SEPP 65 DIAGRAM TYPICAL MID RESIDENTIAL LEVELS SETBACKS (LEVEL 8-9)	05.09.14
Civil Drawings prepared by Northrop			
Drawing No.	Revision	Name of Plan	Date
C1.01	2	CIVIL DESIGN COVER SHEET DRAWINGS SCHEDULE AND LOCALITY PLAN	05.09.14
C2.01	2	CIVIL DESIGN CONCEPT SEDIMENT AND EROSION CONTROL PLAN	05.09.14
C2.11	2	CIVIL DESIGN CONCEPT SEDIMENT AND EROSION CONTROL PLAN	05.09.14
C4.01	2	CIVIL DESIGN ROAD AND CONCEPT	05.09.14

		DRAINAGE LAYOUT SHEET 1	
C4.02	3	CIVIL DESIGN ROAD AND CONCEPT DRAINAGE LAYOUT SHEET 2 (AND AS AMENDED BY COMMENTS ON PLAN RECEIVED 24 OCTOBER 2014)	05.09.14
C4.11	2	CIVIL DESIGN LONGITUDINAL SECTION	05.09.14
C4.21	2	CIVIL DESIGN TYPICAL CROSS SECTION	05.09.14
C5.01	1	CIVIL DESIGN DETAILS SHEET	05.09.14
SK5.01	1	SKETCHES VEHICLE TURN PATHS – 14.5 (SIC) M COACH	05.09.14
SK6.03	1	SKETCHES VEHICLE TURNING PATHS – 14.5M PASSING ON REVISED SITE DESIGN	16.10.14
Landscape Concept Plan prepared by Context			
Drawing No.	Revision	Name of Plan	Date
13594LS K	002 C	LANDSCAPE CONCEPT PLAN LEVEL 1/1A	05.09.14
13594LS K	003 A	LANDSCAPE CONCEPT PLAN LEVEL 2	05.09.14

- (b) Schedule 2 Part F – Post Occupation Condition F6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

Loading/Unloading

All loading and unloading, including deliveries to and from the site in connection with the use must be carried out in a manner so as not to cause inconvenience to the public or detrimentally impact on the amenity of the locality. All vehicles using the loading dock shall enter and exit the site in a forward direction.

All loading and unloading activities relating to any retail premises (other than the supermarket) shall not occur outside the hours of 7:00 am to 10:00 pm, seven days a week.

- (c) Schedule 2 Part F – Post Occupation is amended by the insertion of the following new Conditions F13, to F20:

Internal and External Retail Hours of Operation

F13. The retail premises (excluding the supermarket) and the outdoor dining seating areas shall be restricted to the following hours of operation:

- a) **Internal Hours of operation: 7:00 am to 10:00 pm, seven days a week**
- b) **Outdoor Dining under the through site link canopy: 7:00 am to 10:00 pm, seven days a week**
- c) **Outdoor Dining in all other approved locations: 7:00 am to 7:00 pm, seven days a week**

F14 The use of all retail premises (excluding the supermarket) and the outdoor dining seating areas shall operate in accordance with the Recommended Treatments and Recommended Management Controls of the Acoustic

Assessment prepared by Acoustic Logic and titled *Acoustic Assessment of External Retail Areas Revision 2* and dated 5 October 2017.

F15. Notwithstanding the hours of operation stipulated by Condition F13, extended internal and external hours of operation are permitted for a trial period of 12-months in accordance with the following:

- a) the retail premises may operate internally between 6:00 am and 7:00 am and 10:00 pm and 12:00 (midnight), seven days a week
- b) the outdoor dining seating areas may operate between 6:00am and 7:00 am, seven days a week

The Secretary shall be informed in writing of the date of the commencement of the trial hours, and the trial hours shall not commence before the issue of the first residential Occupation Certificate.

A further application may be lodged to continue the extended operating hours, outlined above, before the end of the trial period. The Department's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, an updated acoustic assessment of both background and operational noise, the performance of the operator in relation to the compliance with development consent conditions and any substantiated complaints received.

The Outdoor Dining Areas

F16. The outdoor dining seating areas associated with the retail tenancies shall:

- a) be confined solely to the areas identified at Figure 3 of the *Acoustic Assessment prepared by Acoustic Logic and titled *Acoustic Assessment of External Retail Areas Revision 2* and dated 5 October 2017*
- b) be limited to the following maximum seating numbers at any one time:
 - i. seating for 150 patrons within the pedestrian through-site link
 - ii. seating for 40 patrons outside tenancy 4, fronting Foreshore Drive
 - iii. seating for 30 patrons around tenancy 5, fronting Burroway Road and the entrance to the through-site link
 - iv. seating for 10 patrons outside tenancy 10, on the corner of Burroway Road and Hill Road
- c) not commence until the glass canopy (approved under SSD 6387 MOD 4) has been constructed/installed
- d) not include any external music

F17. Prior to the operation of the outdoor dining seating areas the proprietor shall ensure they have an adequate Public Risk Insurance Policy.

F18. Prior to the operation of any outdoor dining seating areas that are not located wholly on private property, an Outdoor Dining Approval Certificate shall be obtained from the Sydney Olympic Park Authority.

F19. The outdoor dining seating areas shall be operated in accordance with the following requirements:

- a) the use of outdoor dining is only permitted in conjunction with the provision of a simultaneous food & beverage service from the relevant premises with approved food & beverage use
- b) should the proprietor of any premises operating under Outdoor Dining Approval Certificate change at any time to a new business, a new

Outdoor Dining Approval Certificate from the Sydney Olympic Park Authority is required under the name of the new proprietor for outdoor dining

- c) the proprietor of the premises is solely responsible for any personal injury claims arising from the use of outdoor dining
- d) the outdoor dining areas shall not include permanent seating or tables of any kind
- e) all furniture must be stackable or folded at the end of each trading day and stored in a furniture storage area inside the tenancy
- f) portable signs or goods for sale/display must not be placed on the footway or other public areas
- g) all outdoor furniture and pavement are to be kept hygienically clean and free of food scraps
- h) all outdoor furniture must at all times be maintained in a physically sound and aesthetically acceptable condition
- i) Umbrellas are:
 - i) to be located within the extent of the tenancy leased area and/or the licensed public space
 - ii) to not encroach on or interfere with pedestrian or vehicle movement
 - iii) to be removed or closed during extremely windy conditions and must be removed when the outdoor seating area is not in use
 - iv) not permitted in areas where cover is provided by a building awning or the like
- j) the proprietor of any premises operating under a Outdoor Dining Approval Certificate is to comply with any direction or order issued from Sydney Olympic Park Authority in regard to outdoor dining conditions, including but not limited to, the safe usage of seating and maintenance of accessibility and pedestrian circulation zones
- k) adequate public thoroughfare (minimum 2 metres in width) be maintained through the public thoroughfare zone
- l) the outdoor dining areas are to be used as restaurant seating only with no outdoor lounging areas

Note: Sydney Olympic Park Authority may revoke its Outdoor Dining Approval at any time by if the operation of outdoor seating is not carried out in a satisfactory manner.

F20. The public way and road reserve must not be obstructed under any circumstances by any materials, vehicles, refuse, skips, signs or the like, unless in accordance with a Works Permit or development consent. Non-compliance with this requirement will result in the issue of a notice by the Authority to stop all work on the site or penalty infringements.

Note: further information on Work Permits can be obtained from www.sydneyolympicpark.com.au.

End of modification
(SSD 6387 MOD 5)