

Modification of Minister's Approval

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

As delegate of the Minister for Planning under delegation executed on 25 January 2010, I approve the modification of the project application referred to in Schedule 1, subject to the conditions in Schedule 2.



Michael Woodland

Director

Metropolitan and Regional Projects South

Sydney 11 MARCH 2011

SCHEDULE 1

PART A — TABLE

Application made by:	Toga Development No. 45 Pty Ltd
Application made to:	Minister for Planning
Major Project Application:	MP 09_0081
On land comprising:	<p>61-67 Hall Street</p> <ul style="list-style-type: none"> • Lot 2 in DP 959661 • Lot 1 in DP 100407 • Lots 6 and 7 in DP 747 <p>71 Hall Street</p> <ul style="list-style-type: none"> • Lot 1 in DP 951887 • Lot 1 in DP 1032731 <p>73-75 Hall Street</p> <ul style="list-style-type: none"> • Lot 34 in DP 662281 • Lot 2 in DP 951887 <p>77-79 Hall Street</p> <ul style="list-style-type: none"> • Lots 1 to 14 in SP 31746
Local Government Area:	Waverley Council
For the carrying out of:	<ul style="list-style-type: none"> • The demolition of existing buildings and structures on site; • Excavation for 3 levels of basement carparking; and, • The construction of a mixed use serviced apartment hotel, residential apartment, and retail/recreation building including public through-site link; and, • 3 levels of basement carparking, building services and plant area.
Capital Investment Value:	\$89 million
Type of development:	Major Development
Determination made on:	11 MARCH 2011
Date approval is liable to lapse:	5 years from the date of determination unless the development has been physically commenced

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 09_0081

Responsibility for other consents / agreements

The Proponent is responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the Act and the Regulation.

Legal notices

Any advice or notice to the approval authority shall be served on the Director General.

PART C — DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Waverley Council.

Department means the Department of Planning or its successors.

Director General means the Director General of the Department or his nominee.

Environmental Assessment means the Environmental Assessment prepared by Robinson Urban Planning Pty. Ltd. dated December 2008.

Minister means the Minister for Planning.

MP No. 09_0081 means the Major Project described in the Proponent's Environmental Assessment.

PCA means a PCA and has the same meaning as Part 4A of the Act.

Preferred Project Report (PPR) means the Preferred Project Report / Response to Submissions prepared by Robinson Urban Planning Pty. Ltd. dated March 2010.

Proponent means Toga Development No. 45 Pty Ltd or any party acting upon this approval.

Regulation means the Environmental Planning and Assessment Regulation, 2000 (as amended).

End of Section

SCHEDULE 2 CONDITIONS

The above approval is modified as follows:

- a) *Condition A1 is amended by deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

A1 Development Description

Development approval is granted only to the carrying out of development described in detail below:

- (a) The demolition of existing buildings and structures on site;
- (b) Excavation for 3 levels of basement carparking; and,
- (c) The construction of:
 - (i) 113 room serviced apartment hotel;
 - (ii) 44 **45** residential apartments;
 - (iii) 3,448m² **3,511m²** of retail/recreation (restaurant/café/bar/gym) floorspace;
 - (iv) Publicly accessible through-site link; and,
 - (v) 3 levels of basement carparking for 484 **202** vehicles, building services and plant area.
- b) *Condition A2 is amended by deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

A2 Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with MP09_0081 and the:

- Environmental Assessment dated December 2008 prepared by Robinson Urban Planning Pty. Ltd., except where amended by the Preferred Project Report;
- Preferred Project Report dated March 2010 and prepared by Robinson Urban Planning Pty. Ltd.
- **Environmental Assessment for a Section 75W Modification dated December 2010 and prepared by Robinson Urban Planning Pty. Ltd.**
- Amended Design Report dated March 2010 prepared by Batesmart Architects.
- Crime Prevention Through Environmental Design Report dated June 2010 and prepared by Robinson Urban Planning Pty. Ltd.
- Amended BASIX Certificate No. 302562M **352864M 02**;

- The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part G1, Waverley DCP 2006; and,
- The following drawings:

Architectural Plans prepared by BatesSMART			
Drawing No.	Revision	Name of Plan	Date
A0.101	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A1.101	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A2.201	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A2.202	3 <u>6</u>		26.03.2010 <u>04.02.2011</u>
<u>A2.203</u>	<u>6</u>		<u>04.02.2011</u>
A2.204	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A2.205	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A2.206	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A2.207	3 <u>6</u>		26.03.2010 <u>20.01.2011</u>
A2.208	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A2.209	3 <u>6</u>		26.03.2010 <u>04.02.2011</u>
A2.210	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A2.211	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A2.212	3 <u>5</u>		26.03.2010 <u>06.15.2010</u>
A2.213	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A5.101	3 <u>8</u>		26.03.2010 <u>04.02.2011</u>
A5.102	3 <u>6</u>		26.03.2010

A5.602	3 <u>6</u>		26.03.2010 <u>04.02.2011</u>
A5.603	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A5.604	3 <u>5</u>		26.03.2010 <u>15.12.2010</u>
A5.605	3 <u>6</u>		26.03.2010 <u>04.02.2011</u>
A5.606	3 <u>6</u>		26.03.2010 <u>04.02.2011</u>
A5.607	3 <u>7</u>		26.03.2010 <u>04.02.2011</u>

<u>Landscape Plans prepared by Taylor Brammer Landscape Architects Turf Design Studios Pty Ltd</u>			
Drawing No.	Revision	Name of Plan	Date
LA01 <u>Page 2</u>	F <u>A</u>		26.03.2010 <u>21.12.2010</u>
LA02 <u>Page 3</u>	F <u>A</u>		26.03.2010 <u>21.12.2010</u>
LA03 <u>Page 4</u>	F <u>A</u>		26.03.2010 <u>21.12.2010</u>

Except where amended by the following conditions of approval:

- c) Condition B1 is amended by deletion of the struck out words and insertion of the **bold and underlined** words as follows:

B1 Design Modifications

Prior to the issue of the first **relevant** Construction Certificate, the design of the building shall be amended as follows:

- (1) ~~Level 7 shall be modified by deleting the area shown hatched in red on 'Sketch Plan A' attached to this approval. Any articulation of the alignment of the remaining walls on Level 7 must be made within the floor plan area south west of the area hatched in red.~~
- (2) ~~Level 2 of the western podium 'wing' shall be setback a minimum of 3.4 metres from the O'Brien Street alignment to match Level 3 of the podium 'wing' above.~~
- (3) ~~High level windows with a minimum sill height above finished floor level of 1650mm shall be installed in the north western (side) wall of Levels 2 and 3 of the western podium 'wing'.~~
- (4) ~~The private open space of Apartment 2.32 shall be located on the O'Brien Street elevation and be a maximum width of 8.1 metres measured from the dividing balustrade separating the private outdoor space of Apartment 2.33 from Apartment 2.32. The eastern portion of terrace adjoining Apartment 2.32 shall be made non-trafficable to ensure that there are no adverse acoustic or privacy impacts on No. 8 O'Brien Street.~~

- (5) ~~Translucent skylights shall be installed to Apartments 3.04, 3.05, 3.06, 3.17, 3.18, 7.01 and 7.02 to increase solar access to these apartments and to enhance the amenity for future occupiers.~~
- (6) **Translucent windows shall be installed in the bedrooms of Apartments G.20 and 1.35 to ensure there are no adverse privacy impacts on both future occupiers and residents of No. 8 O'Brien Street.**

Details demonstrating compliance with Condition B1 shall be submitted to and approved by the Director, ~~Metropolitan Projects of the Department of Planning~~ **the satisfaction of the Certifying Authority** prior to the issue of the first **relevant** Construction Certificate.

- d) *Condition B25 is amended by deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

B25 Number of Car/Motorcycle Spaces

The maximum number of car/motorcycle spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

Car parking allocation	Number
Non – residential car parking spaces	141
Residential car parking spaces (including 4 visitor spaces)	43 <u>61</u>
TOTAL (including 20 accessible car parking spaces for the disabled)	484 <u>202</u>
Motorcycle parking spaces	10
<u>Service Vehicle Parking</u>	<u>1 dock</u> <u>5 spaces</u>

Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of an Occupation Certificate. Carparking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.

- e) *Condition B36 is amended by deletion of the struck out words and insertion of the **bold and underlined** words as follows:*

B36 BASIX Certificate Requirements

Prior to the issue of a Construction Certificate, details of all amendments and treatments outlined in the *BASIX Certificate No.302562M* **352864M 02**, to achieve satisfactory levels of thermal comfort, and satisfactory water and energy ratings, shall be incorporated into the proposed development and provided to the Certifying Authority.

END OF MODIFICATION TO MP09_0081