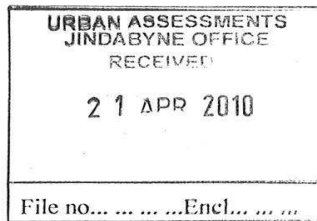


8 April 2010

Mr Andrew Smith
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2001



PJD000350

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Dear Mr Smith,

Statement of Environmental Effects
Section 75W application to amend condition B2 – Infrastructure Contribution
Major Project MP09_0148
12-40 Bonar Street and 5 Loftus Street, Arncliffe

Pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979*, consent is sought from the Department of Planning to amend condition B2 (Infrastructure Contribution) with relation to bullet point 8. It is proposed that the condition be amended to allow for the use of a bank guarantee in lieu of a cash payment to satisfy the condition.

INTRODUCTION

The subject site is located at 12-40 Bonar Street and 5 Loftus Street, Arncliffe. It is bound by Hurst Street, to the south, Loftus Street, to the west, and Bonar Street, to the east. The legal details for the site are as follows:

Address	Legal Details	Title Area
12-38 Bonar Street, Arncliffe	Lot 100, DP 706950	9,152 sqm
40 Bonar Street, Arncliffe	Lot E, DP 399131	1,334 sqm
5 Loftus Street, Arncliffe	Lot 101, DP 706950	5,833 sqm

The site has a surveyed land area of 16,326 sqm.

The area surrounding the site is in transition due to the rezoning of the Bonar Street Precinct. Land to the south, on the other side of Hirst Street, is occupied by existing residential development comprising dwelling houses. Land to the north is occupied by the Arncliffe West Public School and associated grounds. Land to the east and west is currently occupied by industrial buildings.

Arncliffe railway station is location south east of the site and within approximately 400m walking distance.

BACKGROUND

On 3 March 2010, the Planning Assessment Commission granted development consent (MP09_0148) subject to conditions, to the following development on the subject site:

- *Excavation of and dewatering of site*

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- Construction of basement level car parking for 450 vehicles
- Erect 4 residential flat buildings comprising 305 apartments
- Undertake landscaping works

PROPOSED AMENDMENTS & JUSTIFICATION

This S.75W application proposes to amend condition B2 (Infrastructure Contribution) with relation to bullet point 8, which currently requires the payment of a \$477,617 cash contribution for the undergrounding of the existing State Rail power lines. It is proposed to amend the wording of the condition to allow for the use of a bank guarantee (in lieu of a cash payment) to satisfy the condition.

The bank guarantee has the same affect as a cash contribution as it can be drawn on at any time by Council for the nominated use of undergrounding the State Rail power lines. Provision of a bank guarantee has no undesirable impact on Council as the full \$477,617 will be available for the nominate works at anytime within 5 year period. However, in the event that Council does not undertake the works within the prescribed 5 year period and the monies are returned to the property owner, Council would not be required to reimburse the property owner for interest payments that would have otherwise been earned on the funds. By way of example, if the full amount (\$477,617) was invested in a term deposit at 6.5% interest over 5 years, the total amount would grow to over \$650,000.

AMENDMENTS TO THE CONSENT

In order to amend the condition to allow for the submission of a bank guarantee in lieu of a cash contribution with relation to bullet point 8, the following amendments are required to the development consent (shown **bold**).

B2 Infrastructure Contribution

A Section 94 contribution of \$1,829,959 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of a Construction Certificate in accordance with Council's adopted Section 94 contributions plan.

- *Construct widening of the western side of Bonar Street adjacent to the site in accordance with the requirements of DCP 80 and the Wollongong Streetscape Design Manual (or any design manual that supersedes this manual), including design, new levels, pavement, kerb and gutter and drainage. Design and construct a threshold or raised street level within Bonar Street to constrain floodwater / overland flows (\$846,972)*
- *Traffic / pedestrian management facilities on existing roads within and around precinct (roundabouts, traffic lights, intersection improvement and pedestrian islands, crossings, safety fence) (\$211,409)*
- *Provide / upgrade pedestrian / cycle links to Arncliffe and Turrella stations (\$47,289)*
- *Provide additional traffic management facilities within Wollongong Road system (\$5,563)*
- *Upgrade existing bus stops within precinct (lighting, seating, shelters) (\$11,127)*
- *Central square – provide land and embellishment (\$44,507)*

- *Streetscaping of Bonar Street (\$185,475)*
- *Undergrounding the existing State Rail 33kV power lines in Bonar Street and Hirst Street (\$477,617). If the money is not used for this purpose within 5 years it is to be returned to the Proponent. A Bank Guarantee is acceptable in lieu of cash payment for this aspect of the condition only, which shall expire if not used within 5 years*

APPLICABILITY OF SECTION 96(1A)

The application of Section 96(1A) is considered to be warranted in this case for the following reasons:

- The nature of the approved development, being erection of a residential development, is unchanged, and
- The appearance of the building, functionality and relationship to adjoining properties will remain unchanged.

For the above reasons, the development as modified is considered to be substantially the same development as originally granted development consent.

CONSIDERATION

The proposed amendment has been assessed having regard to the relevant matters for consideration under Section 79(C) of the Environmental Planning and Assessment Act 1979. The matters are assessed under the following sections.

Environmental Planning Instruments

The proposed rewording of condition *B2 Infrastructure Contribution* does not affect compliance of the development with the relevant planning instruments. The amendment seeks to allow for use of a bank guarantee in lieu of a cash payment for bullet point 8 of the condition only.

Development Control Plans

The proposed amendment does not affect compliance of the development with relevant DCP's.

Impact of the Development

Suitability of the site

It is considered that the proposed modification does not change the original assessment as to the site's suitability for this development.

Public Interest

The site is to be developed in an orderly and economic manner; this application seeks to achieve this. Public exhibition of the proposed modification is considered unnecessary as it has no visible impact on the appearance of the building.

CONCLUSION

The proposal is considered to satisfy the relevant heads of consideration under Section 79C of the *Environmental Planning and Assessment Act, 1979*.

Alterations to condition *B2 Infrastructure Contribution* to allow for the use of a bank guarantee in lieu of a cash contribution will not have any impact on the Council's ability to access the funds for the purposes of undergrounding the State Rail power lines.

It is therefore requested that the application be supported as proposed.

Yours sincerely

MERITON APARTMENTS PTY LIMITED



BENJAMIUN BLACK
SENIOR TOWN PLANNER