

4 April, 2012

Your Ref: MP09_0148 MOD 7
Our Ref: P3A-2010/0001-03

Mr Ben Lusher
Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Sir

**RE: Request to Modify Condition B4© Public Infrastructure of MP09_0148
MOD 7 at 12-40 Bonar Street & 5 Loftus Street, Arncliffe**

I refer to your letter dated 21 March 2012 regarding the request to modify condition B4(c) Public Infrastructure of MP09_0148 MOD 7 at 12-40 Bonar Street & 5 Loftus Street, Arncliffe.

Council objects to the proposed amendment by the applicant.

The existing wording of Condition of Consent B4(c) remains applicable in its entirety. The proposed amendment has the effect of extinguishing responsibility for completion of works in Hirst Street, and also removes the milestone associated with the condition of consent.

The provision of a bank guarantee is not acceptable, nor is it acceptable to place an expiry date on any such an agreement. Council would consider payment of a contribution for the full cost of complying with the Condition of Consent an appropriate alternative to a bank guarantee. An expiry date is unacceptable as completion of the works is dependant upon the actions of affected utility providers, which is beyond the reasonable control of Council.

Should the Department of Planning and Infrastructure see fit to assign a monetary value to any proposed amendment to the Condition of Consent, Council would seek an appropriate opportunity to assess the full cost of complying with the Condition of Consent. Without this opportunity, an amended condition that determines a cost at this stage may be cause for undue financial hardship to Council by not sufficiently considering the scope of outstanding design and certification by certified designers; and the remaining works and all associated costs of completion, certification and acceptance by the authority. Council would require the certified Works as Executed plans, and proof of asset handover and acceptance from the relevant public utility owners of all works completed for Hirst Street, as imposed by the condition, such that the scope of outstanding works in Bonar Street can be adequately assessed and costed.

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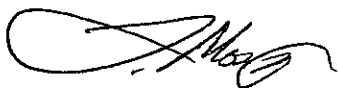
Council suggests the following alternate amended condition of consent for B4(c):

(c)The proponent shall design and construct the streetscaping of the Hirst Street (northern side only) and Loftus Street (eastern side only) frontages of the site, including all paving, footpaths, tree planting, landscaping, lighting, and street furniture and the undergrounding of electricity and other service (excluding railcorp power lines), in accordance with the requirements of DCP 80 and the Wolli Creek Streetscape Design Manual (or any design manual that supersedes this manual), to the satisfaction of Council's Manager – Technical Services. Prior to streetscaping the proponent shall provide conduits within the footpath / nature strip along the entire Bonar Street and Hirst Street frontages of the site suitable to accommodate the future undergrounding of the power lines.

Council will consider the payment of a monetary contribution for the full cost associated with the design and construction specified herein as agreed by Council's Manager – Technical Services in lieu of completing the works.

Should you require any further information on this matter please contact me on (02) 9562 1645.

Yours faithfully



Jeremy Morgan
Manager – Technical Services