

09117
10 November 2011

Michael Woodland
Director - Metropolitan Projects South Region
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000



Dear Michael

**SECTION 75W MODIFICATION - MP09_0154 (MOD 1)
7 RAILWAY STREET, CHATSWOOD**

On behalf of Mirvac Projects Pty Ltd we hereby submit an application pursuant to section 75W of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Project Approval MP09_0154 relating to 7 Railway Street, Chatswood.

The modifications relate to:

- Landscaping within the streetscape, publicly accessible open space and on top of the Railway Enclosure Structure (RES);
- Balconies on the south-eastern corner of the eastern facade;
- A reduction in the number of units from 295 to 294;
- Reconfiguration of the layout of the commercial amenities;
- Resolution of the ground levels at the corner of Help and Railway Streets;
- Deletion of the requirement for shared use of the commercial parking spaces; and
- Provision of a variable width drainage easement.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 75W of the EP&A Act. It should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by JBA Planning dated August 2010 and Preferred Project Report dated December 2010 and is accompanied by:

- Section 75W application form;
- A copy of the Notice of Determination for MP09_0154 (**Attachment A**);
- Revised landscape plan prepared by Aspect (**Attachment B**);
- Revised Architectural Plans prepared by Mirvac Design (**Attachment C**);
- Revised Strata Plans prepared by Denny Linker (**Attachment D**);
- Truck Turning Diagrams (**Attachment E**);
- Wind Impact Statement prepared by Windtech (**Attachment F**);
- Correspondence with Willoughby Council regarding condition C4 (**Attachment G**); and
- Revised BASIX Certificate (**Attachment H**).

1.0 CONSENT PROPOSED TO BE MODIFIED

Project Approval MP09_0154 was granted by The Department of Planning and Infrastructure on 23 February 2011 for the following development:

Construction of a new mixed use residential, commercial and retail development consisting of a:

- 43 storey mixed use building consisting of a:
 - 5 storey podium accommodating retail/cafe tenancies, 4,876m² of commercial floor space and resident recreational facilities
 - 37 storey tower above containing 295 residential apartments
 - Plant within an enclosed roof structure on Level 43
 - Communal private open space on top of the Railway Enclosure Structure
- A seven level basement accommodating a total of 332 parking spaces
- Public domain works comprising:
 - Publicly accessible open space with associated landscaping works;
 - A pedestrian through site link between Railway Street and Cambridge Street
- Stratum subdivision of existing lot into two stratum lots and strata subdivision of the proposed residential stratum.

A copy of the Notice of Determination for MP09_0154 is included at **Attachment A**.

Work has commenced on the site as can be seen in **Figure 1** below.



Figure 1 – Photo of site with works underway

2.0 PROPOSED MODIFICATIONS TO CONSENT

The following modifications are proposed to the approved development.

2.1 Landscape Scheme

Street Trees

Due to the location of services underneath the footpath along the eastern side of Railway Street it is not physically possible to plant street trees within the footpath as was originally proposed. As an alternative solution it is now proposed to provide evergreen trees within the property boundary within raised planter beds, similar to those provided further north in the streetscape out the front of the Epica and Altura buildings. A revised landscape plan showing the details of the proposed planting is provided at **Attachment B**.

Publicly Accessible Open Space

Some minor changes are proposed to the terraced landscape area so as to accommodate the revised location of the vents rising from the car park and also the adjusted headroom height within the basement below. The proposed modifications to the layout do not change the overall intent of the design of the landscaped area or result in any significant reduction of landscaped space.

Landscape Materials

Since the approval of the application the landscaping scheme has undergone further design development in order to ensure the long-term durability of the landscaping scheme and also comply with the relevant safety standards in terms of slip resistant finishes. Consequently minor layout changes and material changes are proposed. This is detailed on the landscape plan at **Attachment B**.

2.2 Commercial Floor Space

Amenities

Mirvac Projects has reviewed the design of the commercial tenancies so as to make them more efficient and to provide a better layout for further subdivision into smaller tenancies. The key changes proposed relate to the location of the amenities provided on each floor. In the case of the ground level tenancies no toilets were originally provided so these have now been added to the plan. On levels 2 to 4 the layout has been rationalised so as to provide a more functional lobby space on each floor (see architectural plans at **Appendix C**).

Car parking

Condition E33 of the approval requires the commercial parking spaces to be made available for residential use outside of commercial business hours. In further progressing the detailed design and practical operation of the development Mirvac has realised that the sharing of the spaces is not practical in this instance as there is no enforcement mechanism to ensure that the residential visitors will vacate the parking spaces when required. Further, having limited access to the commercial parking spaces will make the commercial tenancies less attractive to future occupiers.

It is therefore requested that this aspect of condition 33 be deleted. It is noted that there is ample public parking within Chatswood that visitors are able to utilise and the site is highly accessible via public transport.

Condition E3 will also need to be amended such that reference to shared parking spaces is deleted.

2.3 Residential Apartments

Apartment Amalgamation Level 38

One purchaser has bought two units on Level 38 of the building and wishes to amalgamate the lots into one apartment. In order to reflect this design change the level 38 floor plan and the residential strata plans have been updated. The design changes are internal only and not result in any changes to the facade. The revised architectural and strata plans are appended at **Attachments C and D** respectively.

Enclosure of Balconies

During the assessment of the application RailCorp stipulated requirements for the installation of screens to certain balconies on the eastern facade. As a result of this many of the apartments in the south-east corner of the building had balconies which were half enclosed and half open to the elements. In order to make these spaces more user friendly it is proposed to amend the design of the balconies in this location of the building such that they become 'winter gardens'. The balconies would still be subject to the elements and not waterproofed and as such would be maintained as private open space. However, the ability of the occupant to screen the whole balcony area will mean that these spaces will be useable for longer periods of the year.

Truck Manoeuvring

Condition B2(g) requires that access to a loading/waste handling area capable of handling two trucks at the same time and manoeuvring space that is separate to and does not conflict with the access to the carpark is provided in the basement.

Whilst the designated loading space can accommodate two trucks at a time, it is not possible, due to site constraints, to provide manoeuvring space that is separate to and does not conflict with the access to the carpark. It is therefore requested that this requirement be deleted due to the specific circumstances of the site.

This issue is discussed further at section 3.4 of this report.

2.4 Drainage Easement

Condition C24 requires a minimum 3.0 metre wide easement for drainage purposes. However, due to the irregular shaped property boundary the easement adjoins it is not possible to provide a continuous three metre easement. In light of this it is proposed to provide a variable width easement. Mirvac has approached Council in relation to this matter and has received verbal confirmation that the proposed easement design is acceptable.

2.5 Common Areas and Facilities

Condition E36 provides that no right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans will be conferred on any person or persons without the prior consent of the relevant Council.

In this instance it will be necessary to provide some exclusive use areas within the common property for the purposes of air-conditioning plant, service zones, shop fronts and outdoor seating areas in front of the retail tenancies. It is therefore requested that the condition of consent be amended to account for these types of spaces.

In addition to the above it is proposed to amend condition E45 in relation to the timing of the registration of an easement for access to the publicly accessible landscaped area such that it is required to be provided prior to the issue of the final occupation certificate as opposed to any occupation certificate.

Hard and soft landscaping is always the last item to be completed in Mirvac's developments to avoid it being damaged by construction vehicles, waste and activities. Mirvac is likely to require an occupation certificate for some areas of the development prior to the completion of the landscape area and the through site link. The most likely example of this is an early completion of the commercial floors so tenants can commence their interior fit-outs in time for the completion of the entire building. Further to the above the easement will be limited in height and the surveyor will need to survey the completed structure of the terraced park in order to define the easement properly.

2.6 Further approvals

Condition F13 requires the lodgement of separate development applications to Willoughby City Council for the fitout of the commercial and retail premises in the development. An amendment is requested to this condition which would allow for the fitout of the spaces to be undertaken as complying development in accordance with the relevant environmental planning instrument where the relevant requirements would be met.

2.7 Modification to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

Development Description

A1. Development approval is granted only to carry out the development described in detail below:

Construction of a new mixed use residential, commercial and retail development consisting of a:

- 43 storey mixed use building (maximum height RL 231 AHD) consisting of a:
 - 5 storey podium accommodating retail/cafe tenancies, 4,876m² of commercial floorspace and resident recreational facilities;
 - 37 storey tower above containing ~~295~~ ***294*** residential apartments;
 - Plant within an enclosed roof structure on Level 43;
 - Communal private open space on top of the Railway Enclosure Structure.
- A seven level basement accommodating a total of 332 parking spaces;
- Public domain works;
- Stratum subdivision of existing lot into two stratum lots and strata subdivision of the proposed residential stratum

Approved Plans/Details

A2. The development will be undertaken generally in accordance with MP09_0154 and the Environmental Assessment dated August 2010, prepared by JBA Urban Planning Consultants Pty Ltd, except where amended by the Preferred Project Report dated December 2010, including all associated documents and reports, and the Statement of Commitments prepared by JBA Urban Planning Consultants Pty Ltd, and BASIX Certificates No. ~~348978M, 348979M, 348980M and 348983M~~ ***dated 29 November 2010 348978M_03, 348979M_03, 348980M_03 and 348983M_03*** and the following drawings:

<i>PPR1000</i>	<i>[04]</i>	<i>DRAWING REGISTER</i>
<i>PPR1008</i>	<i>[04]</i>	<i>LEVEL 1 (GROUND) FLOOR PLAN</i>
<i>PPR1009</i>	<i>[04]</i>	<i>LEVELS 2 - 5 FLOOR PLANS</i>
<i>PPR1010</i>	<i>[04]</i>	<i>LEVELS 6-14 FLOOR PLANS</i>
<i>PPR1011</i>	<i>[04]</i>	<i>LEVELS 15-25 FLOOR PLANS</i>
<i>PPR1012</i>	<i>[04]</i>	<i>LEVELS 26-39 & 41 FLOOR PLANS</i>

PPR1013	[04]	LEVELS 40 & 42 FLOOR PLANS
PPR1014	[04]	LEVELS 43, 43 MEZZANINE & ROOF FLOOR PLANS
PPR1015	[04]	NORTH ELEVATION
PPR1016	[04]	SOUTH ELEVATION
PPR1017	[04]	EAST ELEVATION
PPR1018	[04]	WEST ELEVATION
PPR1019	[04]	SECTION A-A
PPR1020	[04]	SECTION B-B
		LANDSCAPE PLAN
		PLAN OF SUBDIVISION

Additional Details and Information

- B2.(g) Provision of access to a loading/waste handling area capable of handling two trucks at the same time ~~and manoeuvring space that is separate to and does not conflict with the access to the car park.~~ The access ramp and entry shall be designed in accordance with AS 2890.2.

Dedication of Drainage Easement

- C24. The Proponent shall dedicate, at no cost to Council, a drainage easement of ~~a minimum 3.0 metres wide variable width~~ over the allotment in favour of Council. The Plan of Dedication shall be lodged with Council for approval and registered with the Department of Land and Property Information prior to the release of the final occupation certificate.

Footpath Trees

- E17. ~~Footpath planting of Platanus X hybrid (Railway Street and west of the railway line in Help Street) and Tristanoopsis laurina (Help Street) are is to be consistent with the following tree planting specifications...~~

Marked Parking Bays

- E3. A total of 332 car parking spaces are required as a result of/in conjunction with this development and are to be provided in accordance with the approved plans. The 332 spaces are to be physically marked to ensure that there is shared use of the residential visitor, ~~retail and commercial~~ spaces. The two car share spaces are to be clearly marked and made always available for use by a car share vehicle.

Certification of slip resistant surfaces

- E9. Upon completion, certification being submitted to the PCA that all floor finishes and floor surfaces (excluding carpet) have either been tested on site ~~or where certification is available from the manufacturer, that certification is submitted to the PCA showing that the surface~~ achieves a slip resistant classification under wet and dry conditions to comply with the current version of AS/NZS 4586, Table 3 of CSIRO/SA publication HB 197 (An Introductory Guide to the Slip Resistance of Pedestrian Surface Materials) and Willoughby Development Control Plan Part C.6 Access, Mobility and Adaptability.

S88B/88E(iii) Instrument – Use of car spaces

- E33 The following conditions apply to car parking:
- (a)...
 - ~~(b) The on-site car parking spaces allocated to the commercial component of the development shall be available for use of visitors outside of standard office hours.~~
 - (c) A documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the *Conveyancing Act 1919*, to the effect of (a) ~~and (b)~~ above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.

Common Areas and Facilities

- E36. No right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans, ***except for the purposes of retail shopfronts and retail seating areas, services zones and air-conditioning plant***, will be conferred on any person or persons without the prior consent of the relevant Council.

Easement in Gross

- E45. Prior to ~~any~~ ***the final*** occupation certificate, an easement for public access in gross for the public to enter, pass, repass, use and enjoy the publicly accessible landscaped area and through site link and tunnel is to be registered over the land in favour of Willoughby City Council.

The terms of the easement are to be approved by Council prior to the issue of any Certificate of Subdivision or registration of the approved Plan of Subdivision.

Separate Development Consent – Various Uses

- F13. The initial use and fit-out of the all the commercial and retail premises in the development shall be the subject of separate development applications to Willoughby City Council, ***except where they can be assessed as complying or exempt development under a relevant Environmental Planning Instrument.***

3.0 PLANNING ASSESSMENT

Our assessment of the proposed changes is provided below.

3.1 Compliance with statutory plans

As the proposal does not alter the approved development in terms of the height, gross floor area or approved land use the development remains consistent with *Sydney Regional Environmental Plan No. 5 – Chatswood Town Centre* and draft *Willoughby Local Environmental Plan*.

The proposal remains consistent with Willoughby DCP in that the:

- » development maintains an external appearance compatible with surrounding existing development;
- » development maintains a publicly accessible through site link;
- » public domain area on Railway Street has been designed with appropriate species, finishes and mobility requirements; and
- » ESD credentials of the development remain consistent with that approved.

3.2 Residential Amenity of Surrounding Development

The proposed changes do not affect the footprint or building envelope of the approved development. In light of this there will be no additional environmental impacts in terms of overshadowing or loss of privacy.

3.3 Residential Amenity of Approved Apartments

The proposed changes will improve the amenity of the approved residential apartments for future occupants in that the private outdoor spaces to those units in the south-eastern corner of the building will become more functional and useable spaces for longer periods of the year.

None of the proposed design changes affect the development's compliance with the ten design principles contained within *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

3.4 Basement Access

As noted in section 2 above, the development has been designed such that two trucks can access the servicing/waste storage area at any one time. However, due to the size of the site and the required headroom it is not possible to provide a separate manoeuvring area which can be dedicated to truck movements. The design of the basement as approved relies on trucks being able to reverse out of the loading dock into the car park ramp before exiting the basement in a forward direction.

As can be seen in the truck turning diagrams, the basement allows for the turning circles of small commercial vehicles to medium rigid trucks (**Attachment F**). The design was reviewed by Colston Budd Hunt & Kafes as part of the assessment of the application who found that the proposed design was suitable and complied with the requirements of the relevant Australian Standards.

It is noted that condition E6 of the approval requires the preparation of a Loading Dock Management Plan (LDMP) prior to the issue of an occupation certificate. The LDMP must outline measures that would prevent another truck from entering the site when the loading dock is occupied by two trucks. The LDMP could also address management measures that will be in place so as to reduce the potential for conflict between cars entering and exiting the car park whilst a truck is reversing out of the loading dock.

3.5 Wind Impacts

As a result of not being able to plant trees within the footpath on Railway Street due to the location of major services located within the footpath, Windtech Consultants Pty Ltd was commissioned to provide an alternative wind mitigation strategy.

The approved and revised wind mitigation strategies are shown in **Figures 2 and 3** respectively (see **Attachment F**).

Windtech Pty Ltd is of the opinion that the revised wind mitigation strategy will result in an acceptable wind environment. Specifically the assessment found that:

- All ground level pedestrian footpaths would meet the comfortable walking criteria of 7.5m/s for the weekly maximum GEM wind speed subject to the installation as ;
- The through site link would also meet the above criteria subject to the installation of 2m high shrub/hedge as shown in **Figure 3**; and
- That the northern landscaped garden would also provide a suitable level of amenity for intended users.

3.6 Parking

The approved development contains 332 on-site parking spaces, some 63 spaces less than that required by Council's parking rates. The above parking provision includes 9 dedicated visitor spaces and 33 commercial spaces.

As part of the PPR it was proposed that the 33 commercial spaces would operate on a shared basis such that outside of the core business hours the spaces would be made available for visitor parking. Whilst Mirvac have sought to implement the shared scenario, during the detailed planning of the operation of the development Mirvac have come to the conclusion that the shared use of the spaces is impracticable for the following reasons:

- There is no enforcement mechanism to ensure that visitors would vacate the spaces during core business hours, and
- Some commercial tenants may require the spaces outside of core business hours.

As noted in the original PA documentation the commercial market within Chatswood is currently weak and consequently Mirvac would like to make the commercial spaces as attractive as possible to future tenants. This includes offering on-site parking spaces without any restrictions on their use.

Whilst the availability of visitor parking on the site will reduce with the proposed amendment it is not expected to have any significant impact on the availability of parking in the area given:

- The close proximity of public parking stations within walking distance of the site, including:
 - the Zenith Towers, McIntosh Street;
 - Wilson Parking, 465 Victoria Street; and
 - Secure Parking, Endeavour Street.
- On-street parking is ticketed in the streets in the near vicinity of the site; and
- The close proximity of the Chatswood Bus and Rail Interchange.

As part of the Sustainable Travel Plan to be prepared for the site, Mirvac will advise of the limited onsite visitor parking and provide details of alternative parking locations, such as those listed above.

The provision of reduced onsite parking is consistent with State and Local Government Policy to increase patronage of public transport and reduce reliance on private motor vehicles.

4.0 CONCLUSION

The proposed modifications to the approved development at 7 Railway Street are minor and would not have any material effect on the nature of the approved development. Many of the changes result from further design development and the greater specialist input that has now been received.

In light of the above, we recommend that the proposed modification be supported by the Department of Planning and Infrastructure. We trust that this information is sufficient to enable an assessment of the proposed modification, should you have any queries in relation to the above, please do not hesitate to contact me on 9956 6962 or at jbuchanan@jbaplanning.nsw.gov.au.

Yours faithfully



Jennie Buchanan
Principal Planner

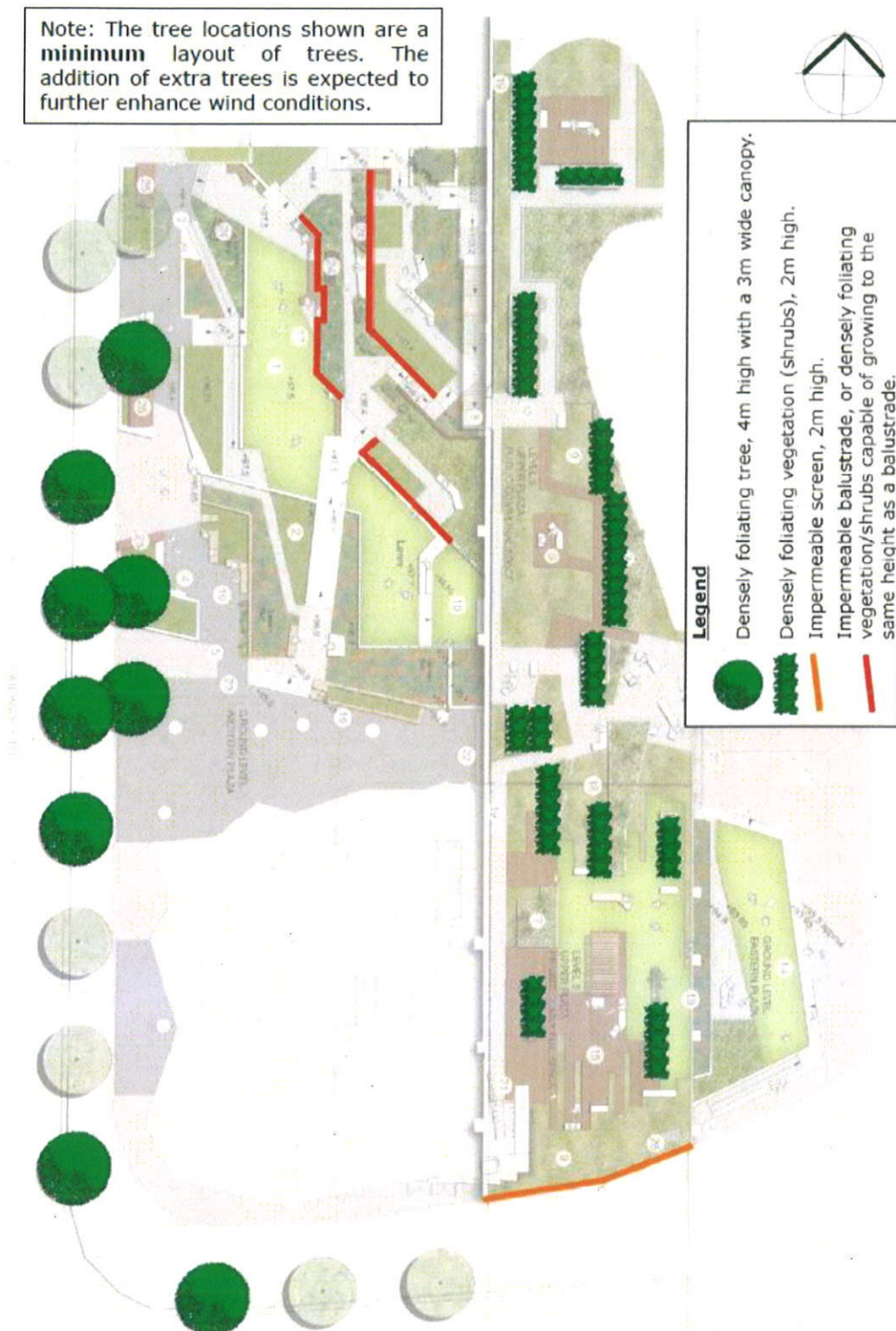


Figure 2 – Approved wind mitigation strategy
Source: Windtech Pty Ltd

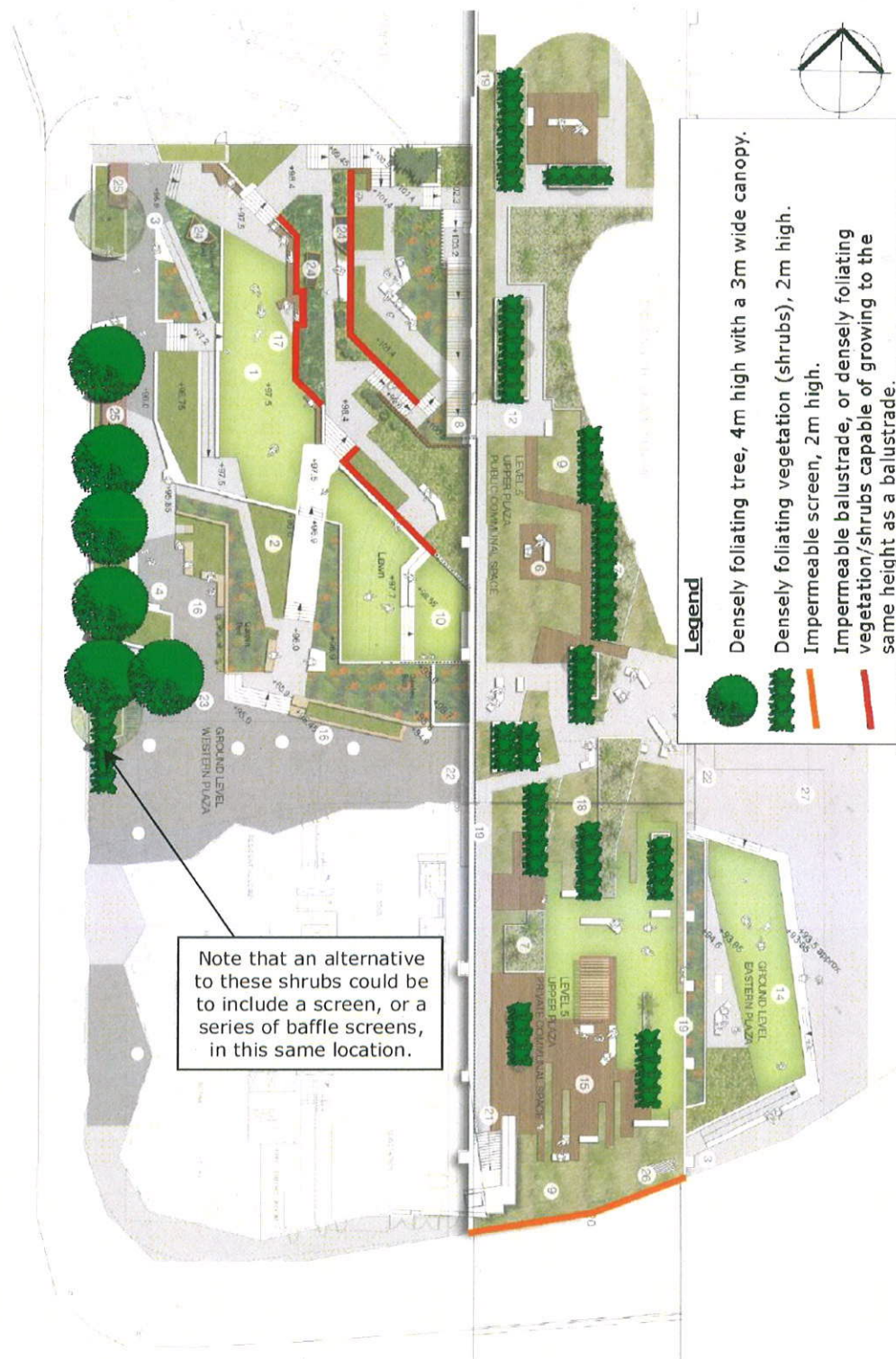


Figure 3 – Revised wind mitigation strategy
Source: Windtech Pty Ltd