

Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, I approve the modification of the project application referred to in schedule 1, subject to the conditions in schedule 2.

MEMBER OF THE COMMISSION

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Sydney

2012

SCHEDULE 1

Project Approval:

MP09_0154 granted by the Minister for Planning on 23 February 2011

For the following:

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/café 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; and
- Stratum subdivision of existing lot into two stratum lots and strata subdivision of the proposed residential stratum.

Modification:

- amended landscaping within the site, on top of the railway enclosure structure and deletion of street trees;
- reconfiguration of the layout of commercial levels, including indicative inter-tenancy walls, kitchenettes and bathrooms;
- deletion of the requirement for shared use of commercial car parking spaces outside commercial business hours;
- reduction in the number of apartments from 295 to 294;
- provision of screens to balconies on the eastern façade;
- deletion of the requirements in relation to separate access and manoeuvring space for the loading dock;
- provision of a variable width drainage easement; and
- delaying the rights of the easement for public access to the landscaped area and through site link coming into effect until landscaping and walkway works are completed.

SCHEDULE 2 CONDITIONS

The Project Approval for MP09_0154 is modified as follows:

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

Development Description

- A1. Development approval is granted only to carrying 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 231m AHD) consisting of a
 - 5 storey podium accommodating retail/café tenancies, 4,876m² of commercial floor space 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; and
- 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.

- (b) Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

Approved Plan/Details

- A2 The development will be undertaken generally in accordance with MP No. 09_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, 348980M 03 and 348983M 03** and the following drawings:

Architectural Drawings prepared for the Environmental Assessment / Preferred Project Report / <u>Section 95W Application dated 10 November 2011</u> by Mirvac Design Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
PPR – 1000	03	Drawing Register	Nov 10
PPR – 1001	03	Locality & Context Plan	Nov 10
PPR – 1002	03	Site Plan	Nov 10
PPR – 1003	03	Site Analysis	Nov 10

PPR – 1004	03	Car parking Levels B6 & B7	Nov 10
PPR – 1005	03	Car parking Levels B4 & B5	Nov 10
PPR – 1006	03	Car parking Levels B2 & B3	Nov 10
PPR – 1007	03	Car parking Level B1	Nov 10
PPR – 1008	03 <u>5</u>	Level 1 (Ground) Floor Plan	Nov 10 <u>30/01/2012</u>
PPR – 1009	03 <u>5</u>	Level 2 – 5 Floor Plans	Nov 10 <u>08/02/2012</u>
PPR – 1010	03 <u>4</u>	Level 6 – 14 Floor Plans	Nov 10 <u>10/11/2011</u>
PPR – 1011	03 <u>4</u>	Level 15 – 24 Floor Plans	Nov 10 <u>10/11/2011</u>
PPR – 1012	03 <u>4</u>	Level 26-39 & Level 41 Floor Plans	Nov 10 <u>10/11/2011</u>
PPR – 1013	03 <u>4</u>	Level 40 & Level 42 Floor Plans	Nov 10 <u>10/11/2011</u>
PPR – 1014	03 <u>4</u>	Level 43 Plant Room, Mezzanine Plant Room & Roof Plans	Nov 10 <u>10/11/2011</u>
PPR – 1015	03 <u>4</u>	North Elevation	Nov 10 <u>10/11/2011</u>
PPR – 1016	03 <u>4</u>	South Elevation	Nov 10 <u>10/11/2011</u>
PPR – 1017	03 <u>4</u>	East Elevation	Nov 10 <u>10/11/2011</u>
PPR – 1018	03 <u>4</u>	West Elevation	Nov 10 <u>10/11/2011</u>
PPR – 1019	03 <u>4</u>	Section A – A	Nov 10 <u>10/11/2011</u>
PPR – 1020	03 <u>4</u>	Section B – B	Nov 10 <u>10/11/2011</u>
PPR – 1021	03	Pre-adaptable and Adaptable Mode Apartment Floor Plans Levels 12 - 42	Nov 10
PPR – 1022	01	Pre-adaptable and Adaptable Mode Apartment Floor Plans Levels 7 - 42	Nov 10
N/A	N/A	Indicative External Finishes Board	Dec 10
Landscape Master Plan prepared for the Environmental Assessment / Preferred Project Report / Section 75W Application dated 10 November 2011 by Aspect Studios			
Drawing No.	Revision	Name of Plan	Date
PPR1025 <u>10028</u> <u>L75W 01</u>	2 <u>3</u>	Landscape Master Plan	10.11.2010 <u>09.11.2011</u>
Stratum and Strata Subdivision Plans prepared for the Environmental Assessment / Preferred Project Report / Section 75W Application dated 10			

November 2011 by Denny Linker & Co Suveryors			
Drawing No.	Revision	Name of Plan	Date
080406D-SUB	7	Plan of proposed Subdivision of Lot 6 in DP 1058962	15 Nov 2010
080406 DSP	4 <u>9</u>	Plan of Subdivision of proposed Lot 1 in the subdivision of Lot 6 DP 1058962	19 Nov 2010 <u>08 Nov 2011</u>

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
 - (2) otherwise provided by the conditions of this approval.
- (c) Condition B2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

Additional Details and Information

B2. Any requirements outlined by conditions of this project approval requiring changes and/or information to be noted on plans are to addressed to the satisfaction of the Certifying Authority prior to issue of the relevant construction certificate.

In particular, the following issues are to be addressed:

- a) All the proposed external finishes are to be demonstrated to be low maintenance high quality finishes that consider the locality and blend with the style of the urban setting.
- b) Wind Tunnel testing shall be undertaken of the approved design and any recommendations and requirements to achieve a minimum of 60% of apartments able to be naturally cross-ventilated or achieve equivalent resultant natural ventilation.
- c) Preparation of a detailed landscape plan. The landscape plan shall demonstrate the requirements for structural design of the base building to ensure the required soil depths, irrigation and drainage is provided to facilitate achievement of the landscape outcomes. Should the wind management rely on planting treatments the wind consultant shall verify that the landscape plan achieves the requirements for wind management.
- d) The Landscape Plan shall be accompanied by the lighting, public art and furniture plan for the public precinct area, including the provision of bicycle storage. The lighting shall comply with AS/NZS 1158 – Lighting for Public Streets and Pedestrian Areas. All proposed lighting is to incorporate vandal resistant lamps. The furniture plan shall comply with Willoughby Council's Manual for street furniture in Chatswood CBD.
- e) The Landscape Plan shall identify the use of the land on top of the Railway Enclosure Structure and distinguish between private communal open space for residents of the approved building, and communal open space accessible by all buildings within the Pacific Place precinct.
- f) Design of the path of travel for the through site link and tunnel, including the Schedule of finishes and materials to be used, shall be approved by Council

in consultation with Chatswood Police Crime Prevention Officer. The tunnel design shall include internal illuminated (back-lit) walls with public art integrated into the wall surface (NOT third party advertising) to provide visual interest to the link and contribute to the lighting of the space. The finishes shall be vandal resistant and low maintenance.

- 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 conflict between service vehicles and residential vehicles is to be managed by the implementation of "Car Park Access Traffic Signal System" shown in Drawing No: PTC-01. In all other respects** the access ramp and entry shall be designed in accordance with AS 2890.2.

- (d) Condition B32 to be added by the insertion of the **bold and underlined** words / numbers as follows:

Internal works on Commercial levels

B32. Inter-tenancy walls, bathrooms and kitchenettes within Levels 2-5 shall be generally in accordance with the indicative layout shown on Drawing No. PPR 1009 Revision 5 dated 08/02/2012 and approved by the Certifying Authority prior to issue of the relevant Construction Certificate.

- (e) Condition C24 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

Dedication of Drainage Easement

C24. The Proponent shall dedicate, at no cost to Council, a drainage easement of a ~~minimum 3.0 metre(s) wide~~ **variable width** over the allotment in favour of Council. The Plan of Dedication **and the associated 88B Instrument** shall be lodged with Council for approval and registered with the Dept of Land and Property Information **prior to the release of the final Occupation Certificate.**

- (f) Condition E3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

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~~ **indicate their approved allocation to residential, visitor, retail and commercial components of the development.** The two car share spaces are to be clearly marked and made always available for use by a car share vehicle.

All parking bays and/or truck docks and the direction of traffic movement being permanently marked on the pavement surface in accordance with the approved parking and driveway layout to the satisfaction of the Certifying Authority.

- (g) Condition E9 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

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 demonstrating that the surface** ~~to achieve~~ 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.

On site testing shall be undertaken where the finish of the original product is altered in any way during or after installation.

- (h) Condition E17 is deleted.
- (i) Condition E33 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

S88B/88E(iii) Instrument – Use of Car Spaces

- E33. The following conditions apply to car parking:

- a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used by those other than an occupant, tenant or resident of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant, lessee or registered proprietor of a unit in the building.
 - 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.
 - d) Any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the *Strata Titles (Freehold Development) Act 1973*, as amended, burdening all utility car parking allotments in the strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the *Conveyancing Act 1919* burdening all car parking part – lots in the strata scheme.
- (ij) Condition E45 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

Easement in Gross

- E45. Prior to any occupation certificate, an easement for public access in gross for the public to enter, pass, re-pass, 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 rights granted under this easement for public access are subject to the completion of construction of the landscaping and walkways forming part of the Easement Site by the Grantor.

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.

- (k) Condition F13 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

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, **apart from the construction of inter-tenancy walls, bathrooms and kitchenettes where they are approved as part of this development.**

End of Modifications to MP09_0154