

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, the modification of the Project Application referred to in Schedule 1 is approved subject to the conditions in Schedule 2.



Donna Campbell
MEMBER OF THE COMMISSION

Sydney

11 March 2014

SCHEDULE 1

Project Approval:

09_0187 granted by the Planning Assessment Commission on 1 May 2012.

For the following:

Mixed use development at 6-16 Atchison Street, St Leonards, including:

- 6 levels of basement, containing 168 car spaces, 4 spaces for disabled drivers, and 16 motor bike spaces;
- a café, residential and hotel lobbies and public plaza at the ground floor level;
- a 4 level hotel (76 serviced apartments);
- 24 levels of apartments (173 apartments); and
- 1 level of roof top plant and equipment.

Modification:

Modifications to the number of serviced and residential apartments, floor plan and public domain layouts, and building facade, including:

- a reduction in the number of serviced apartments from 76 to 64;
- an increase in the number of residential apartments from 173 to 190; and
- consequential changes to floor plan and public domain layouts and building facade treatment.

SCHEDULE 2 CONDITIONS

The following conditions are amended by insertion of the **bold** words and deletion of ~~struck out~~ words as follows:

PART A – ADMINISTRATIVE CONDITIONS

Development in accordance with plans and documentation

Condition A1 is modified as follows:

- A1. The Proponent shall carry out the project generally in accordance with the:
a) Architectural drawings in the table below:

Drawing number	Drawing title	Drawn by	Date
-	Indicative External Privacy Screen – Sample of Perforation Pattern	Robertson + Marks	-
PA-100-01/6	Proposed Site Plan	Robertson + Marks	22/01/14
PA-100-02/6	Ground Level Residential Entry Lower	Robertson + Marks	22/01/14
PA-100-03/4	Ground Level Upper	Robertson + Marks	22/01/14
PA-100-04/3	Level 1 Serviced Apartments	Robertson + Marks	08/08/13
PA-100-05/3	Level 2 Serviced Apartments	Robertson + Marks	08/08/13
PA-100-06/5	Level 3	Robertson + Marks	22/01/14
PA-100-07/5	Level 4	Robertson + Marks	22/01/14
PA-100-08/4	Level 5	Robertson + Marks	22/01/14
PA-100-09/3 to PA-100-15/3	Level 6 to Level 12	Robertson + Marks	08/08/13
PA-100-16/3	Level 13	Robertson + Marks	05/08/13
PA-100-17/3 to PA-100-27/3	Level 14 to Level 24	Robertson + Marks	08/08/13
PA-100-28/3	Roof Plan	Robertson + Marks	08/08/13
PA-100-29/2	Adaptable unit	Robertson + Marks	05/06/13
PA-100-30/2	Adaptable unit	Robertson + Marks	05/06/13
PA-200-01/4	North South Section	Robertson + Marks	28/01/14
PA-200-02/3	East West Section	Robertson + Marks	28/01/14
PA-200-15/4	Basement Level 1	Robertson + Marks	22/01/14
PA-200-16/4	Basement Level 2	Robertson + Marks	22/01/14
PA-200-17-3	Basement Level 3	Robertson + Marks	12/08/13
PA-200-18-3	Basement Levels 4-5	Robertson + Marks	12/08/13
PA-200-19-3	Basement Levels 6	Robertson + Marks	12/08/13
PA-210-01/3	Podium Atchison Street	Robertson + Marks	28/01/14
PA-210-02/3	Podium Atchison Lane EW	Robertson + Marks	28/01/14
PA-210-3/3	Public Domain Café NS	Robertson + Marks	28/01/14
PA-210-4/3	Public Domain Car Park NS	Robertson + Marks	28/01/14
PA-210-5/5	Public Domain Atchison Street Elevation	Robertson + Marks	28/01/14
PA-210-6/6	Public Domain Atchison Lane Elevation	Robertson + Marks	28/01/14
PA-300-01/7	North Elevation	Robertson + Marks	28/01/14
PA-300-2/3	East Elevation	Robertson + Marks	28/01/14
PA-300-3/4	South Elevation	Robertson + Marks	28/01/14
PA-300-4/4	West Elevation	Robertson + Marks	28/01/14
-	Schedule of External Finishes	Robertson + Marks	-

~~numbered PA-100-01 to PA-100-18 (inclusive), PA-200-01 and 200-2, PA-210-01 to PA-210-07 (inclusive), and PA-300-01 to PA-300-04 (inclusive) all dated April 2011 and all drawn by Francis Jones Morehen Thorp Pty Ltd;~~

~~b) Preferred Project Report prepared by City Plan Services Pty Ltd, dated April 2011;~~

b) Landscape Plan, **SS13-2590** drawing numbers 002, 003, 004, Issue **H I**, dated **28/01/14**, drawn by Site Image Landscape Architects;

c) Stormwater drainage concept plans numbered 3532 H-100 to H-117 (inclusive) all issue 01, all dated March 2010, and all drawn by Warren Smith & Partners Pty Ltd; and

d) the **Revised** Draft Statement of Commitments submitted with the Section 75W Modification Application prepared by City Plan Services Pty Ltd, dated ~~October 2012~~ **January 2014**; and

e) **the independent traffic review by ARUP in its letter to the Department of Planning and Infrastructure, dated 5 February 2014.**

Except for:

a. 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

b. Otherwise provided by the conditions of this approval.

End of this Section

PART B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

Condition B3 is modified as follows:

Building Height and Design

B3.

- a) The building is to be lowered so that it has a maximum height of RL 167.3 AHD. Amended plans shall be submitted to the Director-General for approval prior to the issue of any Construction Certificate for the above-ground non-residential and residential components of the development.
- b) **Horizontal fins (as per the scheme prepared by Robertson + Marks) are to be retained to both the north and south sides of the building in order to provide articulation to the facade.**

Condition B6 is modified as follows:

Car Park

B6. The proposed car park must be designed to satisfy the following requirements:

- (a) All vehicles must enter and exit the basement in a forward direction;
- ~~(b) The site must be capable of accommodating all service vehicles up to and including medium rigid vehicles as defined by and in accordance with Australian Standard AS2890.2 – 2002 Off Street commercial vehicle facilities, or its latest version;~~
- ~~(c) The layout of the proposed car parking areas, loading docks and driveway associated with the subject development (including grades, turn paths, sight distance requirements, aisle widths and lengths, loading bay dimensions and parking bay requirements) shall comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities – Off Street Car Parking and AS2890.2 – 2002 for large vehicles;~~
- (b) **The basement ramp design, grades and overhead clearance between Atchison Lane and the Basement 1 loading area shall be generally in accordance with ARUP's letters to the Department of Planning and Infrastructure dated 18 December 2013, 20 December 2013 and 5 February 2014. In this regard, the access ramp is to be modified to increase the headroom clearance at the two locations specified in Arup's letter dated 5 February 2014;**
- ~~(d-c)~~ The location of any boom gate or other vehicular access control for driveway entry to the car park should be located to provide for the queuing of at least three (3) cars within the property;
- ~~(e-d)~~ The intercom for the visitor parking access and/or security access point for residents is to be installed at least 6 metres into the property from the boundary line; **and**
- ~~(f e)~~ ~~The number of parking spaces allocated to each apartment shall comply with the maximum requirements specified in the North Sydney Development Control Plan 2002.~~ **A maximum of 168 parking spaces shall be provided.**

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted with the relevant Construction Certificate. Details shall be approved by the Certifying Authority prior to issue of the relevant Construction Certificate.

Condition B11 is modified as follows:

Section 94 Contributions

- B11. Following receipt of the approval of the Director General for the amended plans required by condition B3, the approved plans must be submitted to Council so that it may calculate the required Section 94 contributions (in accordance with the North Sydney Section 94 Contribution Plan). The contributions are to be paid to Council prior to the determination of any Occupation Certificate for the building. **Contributions are to be paid for all the items listed in the table below.**

Section 94 contributions (\$) based on 2013-2014 rates	
Administration	19,301.11
Child care facilities	30,150.15
Community centres	90,398.81
Library acquisition	16,805.22
Library premises and equipment	52,025.50
Multi purpose indoor sports facilities	13,994.72
Open space acquisition	586,294.96
Open space increased capacity	1,162,137.66
Olympic pool	45,587.82
Public domain improvements	472,778.09
Traffic improvements	51,465.88
Total contributions	2,540,939.92

To secure payment of the contributions, the Proponent must arrange a bank guarantee in favour of North Sydney Council on terms acceptable to the Council. The bank guarantee must be arranged prior to issue of any Construction Certificate for the above-ground non-residential and residential components of the development.

If the section 94 contributions are not paid within one calendar year of the date of this consent, the amount shall be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

Condition B38

Condition B17 is modified as follows:

Garbage and Recycling Facilities

- B17. An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements shall be met:
- All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
 - Provision for the separation and storage in appropriate categories of material suitable for recycling; **and**
 - ~~The storage area shall be adequately screened from the street, with the~~

~~entrance to the enclosures no more than 2 metres from the street boundary of the property;~~

- ~~d) If a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay shall be provided no more than 2 metres from the street boundary of the property;~~
- ~~e) Garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and~~
- ~~f c) Garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.~~

Details shall be approved by the Certifying Authority prior to issue of the relevant Construction Certificate.

Note: The Proponent may wish to discuss bin storage requirements and location with Council prior to finalisation of the required detail, and obtain a copy of Council's Waste Handling Guide for reference purposes.

End of this Section

PART E – PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

Condition E1 is modified as follows:

Deed of Agreement – Public Space

E1 Prior to completion and issue of any interim Occupation Certificate, the Proponent shall enter into a Deed of Agreement with Council with regard to the proposed public area at the ground level of the site, including the through-site pedestrian link to the rear lane, and the widened footpath area to Atchison Street, as shown on drawing numbered PA-100-01/6 titled '~~Public Domain Plan~~' **Proposed Site Plan** prepared by ~~Francis Jones Morehen Thorp~~ **Robertson + Marks Architects**, dated 22/01/14 submitted with the application, which achieves the objectives of:-

- enabling the public to use that area for the purpose of public access at all the times, for the life of the building (not in perpetuity);; and
- binds all successors in title and ensures the rights are not subject to change or variation except with the prior consent of Council.

The Proponent shall be responsible for the maintenance of the area and public liability insurance for a policy in the amount of not less than \$20 million in respect of any property damage, personal injury and loss of life caused by or in connection with the provision and use of the area. The Deed of Agreement shall include details on the design and finishes of materials, levels of light and security.

The Deed must also make provision for a ~~C~~covenant on title to be registered with NSW ~~Department of Lands~~ **Land and Property Information** prior to the issue of any Occupation Certificate for the building. The ~~C~~covenant must note the matters contained in the Deed to ensure that the area is maintained as public space for the life of the building.

The Deed and any associated documentation shall be prepared, executed and registered at the sole cost of the Proponent, including the reasonable costs of Council in obtaining advice, the cost and expense of negotiating the terms and conditions of the agreement, producing documents or otherwise facilitating the preparation, execution and registration of the required documents. **The Deed** shall bind all successors in title and shall only be subject to variation at the discretion of the Council.

Condition E3 is modified as follows:

Easement(s) adjacent to Atchison Lane

E3 Prior to the issue of the final Occupation Certificate, the person acting on ~~the consent~~ **this Project Approval** shall create a public right-of-carriageway, public right-of-way and easements for services and drainage 1.5m wide and 2.0m deep along the Atchison Lane frontage of No. 16 Atchison Street in Council's favour, by appropriate instrument under Part 6, Division 4 of the *Conveyancing Act 1919*. Such easements shall be at no cost to Council.

North Sydney Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument, and North Sydney Council's official seal shall be affixed to these documents, prior to submission to ~~the~~ **NSW Land & Property Information Office**. Evidence of the lodgement of the instrument referred to in this condition is to be provided to Council with a copy of the Occupation Certificate.

Condition E18 is added as follows:

Private waste collection and liability for Council rates and charges

E18 Prior to the issue of any occupation certificate, the proponent shall provide evidence of the creation of Section 88B instruments under the *Conveyancing Act 1919* alerting future owners that they will require private waste collection while remaining liable for Council rates and charges. This condition applies only if private waste collection is proposed for the project.

End of this Section

PART F – DURING OPERATIONS

Condition F6 is deleted:

~~Commercial Waste and Recycling Storage~~

~~F6. Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.~~

Condition F15 is modified as follows:

Maximum Vehicle Size

F15. Vehicles longer than ~~6.4m~~ **8.8m** must not enter the site.

End of this Section

SCHEDULE 3
REVISED DRAFT STATEMENT OF COMMITMENTS

**REVISED DRAFT STATEMENT OF COMMITMENTS FOR PROJECT
APPLICATION**

AT NO. 6-16 ATCHISON STREET, ST LEONARDS

ON BEHALF OF

~~BANCOR DEVELOPMENTS~~ HOLDMARK NSW PTY LTD

A – GENERAL

1. The project will be carried out generally in accordance with the plans and material submitted as part of

The Environmental Assessment for Major Project No. 09_0187 as described in: -

- a) Environmental Assessment Report and associated appendices dated June 2010, **as amended by the Preferred Project Report dated April 2011, as amended by the Environmental Assessment Report dated October 2012 and as amended by the Environmental Assessment Report dated June 2013;**
- b) Architectural Drawings prepared by ~~FJMT dated July 2010~~ **Robertson + Marks dated June 2013 and January 2014;**
- c) Public Domain and Landscape Plans prepared by ~~FJMT dated June 2010~~ **Site Image dated January 2014;**
- d) BASIX Certificate prepared by ~~Steenen Varming~~ **Cundall;**
- e) Hydraulic / Stormwater design and Report prepared by Warren Smith & Partners dated March 2011;
- f) Construction Management Plan & Waste Management Plan prepared by CPM consulting dated 1 April 2011; and
- g) Operational Waste Management plan prepared by ~~Arup~~ **Elephant's Foot Recycling Solutions** dated ~~1 July 2010~~ **June 2013.**
- h) ~~Draft Voluntary Planning Agreement prepared by Baker & Mackenzie dated July 2010.~~

2. The Proponent (~~Bancor Developments~~ **Holdmark NSW** Pty Ltd) will ensure that all contractors engaged to carry out work are aware of and will comply with relevant conditions of consent issued under Major Project No. ~~07_0106~~ **09_0187**.

1. STATEMENT OF COMMITMENTS

Except as provided elsewhere in this Statement of Commitments, these commitments in this Section A - General are made in respect of the carrying out of the project (mixed use) on the site known as No. 6-16 Atchison Street, North Sydney.

2. CONTRIBUTIONS

A contribution pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act 1979, as specified under the North Sydney Section 94 Contribution Plan for the services detailed in column A and, for the amount detailed in column B shall be made to Council.

A	B (\$)
Administration	
Child Care Facilities	
Community Centres	
Library Acquisition	
Library Premises & Equipment	
Multi Purpose Indoor Sports Facility	
Open Space Acquisition	
Open Space Increased Capacity	
Olympic Pool	
The total contribution is	To be confirmed with Council

The contribution SHALL BE paid prior to ~~determination of the application for any interim Occupation Certificate~~ **the issue of the Occupation Certificate** for the building.

The above amount, if not paid within one calendar year of the date of this consent, shall be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

3. CAR SHARE SCHEME

The proponent will provide for a car share / pool scheme in order to address some of the cumulative traffic impacts on the precinct.

This will involve the serviced apartment occupiers having the benefit of utilising two privately owned cars. The occupiers may reserve a car either online or over the phone, and collect it from the reserved space. An electronic smart card, acts as a car key. When finished, the car is returned to the same reserved space.

Car share users are charged by time and distance, at a rate set by each operator.

4. UNDERGROUNDING OF POWER

The proponent will discuss with Energy Australia the cost and feasibility of: -

- providing power to the building by underground conduits from the mains to the primary supply box or room within the building; and
- placing underground the power supply conduits located along Atchison Street between Christie and Mitchell Streets and the removal of existing power poles **(subject to proviso)**.

The Proponent will either do this work or pay for Energy Australia to do this work if the Proponent considers that it is feasible for it to do so and that the cost is reasonable. Any work carried out by the Proponent will be completed to Energy Australia's requirements. Details will be provided with the application for the final Construction Certificate.

5. OPEN SPACE / PUBLIC DOMAIN ACCESS

Deed of Agreement – Public Space

Prior to completion and issue of any interim Occupation Certificate, the applicant shall enter into a Deed of Agreement with Council with regard to the proposed public area identified on ~~the plans~~ plan number ~~PA180-01~~ **PA100-01-06** dated ~~July 2010~~ **January 2014** – ~~Public domain~~ **Proposed Site Plan**, located at Nos. 6-16 Atchison Street, St Leonards, drawn by ~~FJMT~~ **Robertson + Marks** Architects which achieves the objectives of: -

- enabling the public to use that area for the purpose of public access at all the times; and
- ensure the rights are not subject to change or variation except with the prior consent of Council.

The Deed of Agreement shall be for the life of the building and not in perpetuity.

The Deed and any associated documentation shall be prepared, executed and registered at the sole cost of the applicant, including the reasonable costs of Council in obtaining advice, the cost and expense of negotiating the terms and conditions of the agreement, producing documents or otherwise facilitating the preparation, execution and registration of the required documents, shall bind all successors in title and shall only be subject to variation at the discretion of the Council.

6. ENVIRONMENTAL SUSTAINABILITY

- ~~6.1 Based on the initiatives that have been considered the proposed design, the proponent is committed to providing a 5 star rated building.~~
- 6.2 In terms of water efficiency ~~Bancor~~ the development is estimated to give water savings of 40%.
- 6.3 In terms of energy efficiency ~~Bancor~~ the development is estimated to give energy savings of more than 20%.
- 6.4 ~~BASIX~~ **BASIX** commitments:

Water	Fixtures	<p>All shower heads – 3 star</p> <p>All flushing systems- 4 5 star</p> <p>All kitchen taps mixers – 4 5 star</p> <p>All bathroom taps – 4 star</p> <p>All wash-hand basin mixers- 5 star</p> <p>Clothes washer – 5 star</p> <p>Dishwasher – 4 star</p>
	Rain water collection & reuse	Run-off from at least 714 m² of roof area will be collected. Rain water will be collected and reused for swimming pool make-up water and for common area landscape irrigation and car washing bay.
Energy	Hot Domestic hot water system	Central solar hot water system Gas boiler DHW system insulation; insulation to internal and external piping.
	Air-conditioning and ventilation systems	Centrally ducted Central heat ventilation system; individual water cooled A/C COP 3.5-4.5; gas fired boiler heating and kitchen, bathroom and laundry exhausts have individual system ducted to façade.
	Appliance efficiency Measures	<p>Gas cooktop</p> <p>Electric oven</p> <p>Dishwasher – 5 4 star</p> <p>Refrigerator – 5 2.5 star</p> <p>Clothes Dryer – 5 2 star</p>
	Lighting	Dedicated artificial lighting Primary LED or Fluorescent lighting to lounge, bedroom, kitchen, bathroom, Laundry and Halls
	Lifts	Gearless traction lifts with VVVF motors
Thermal Comfort	Construction and Shading	As per plans (60% free area for external shading screens)
	External Glazing	Low-e glazing with U-value not more than 4.0 and SHGC not more than 0.47.
	External Walls	Majority of the external walls would be fully glazed. Few parts of external walls that are not glazed will be composed of concrete panels finished with plasterboard. (Concrete panels + furring channels + plasterboard). 150mm concrete, cavity + insulation, plasterboard internal finish.
	Internal Walls	Inter-unit tenancy Party walls would be cheaper rock walls 300mm wide.: 90mm concrete block with plasterboard finish; and Apartment walls within each tenancy will be: Plasterboard on studs.
	Exposed Roof Areas	200mm concrete, cavity + insulation, plasterboard internal finish
	Floor Finishes	Living rooms and bedrooms would be covered with carpets. 100mm concrete, carpet / ceramic tiles

	Ceiling Insulation	R2 Insulation (Required only for the top units) 100mm concrete, plasterboard.
	Window	Aluminium frame, performance laminate glass

7. CONTAMINATION

After demolition and prior to excavation a preliminary Site Investigation Report and (if required) a Remediation Action Plan (RAP) will be prepared for the site. If required remediation activities will be carried out in accordance with the RAP and a Site Audit Statement will be prepared for the site.

8. NOISE

8.1 Construction noise activity in respect of any stage is to comply with the requirements set out in Chapter 171 of the EPA Environmental Noise Control Guideline.

8.2 Best practice management noise control procedures outlined in AS 2436-1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites" are to be applied in controlling construction noise to the recommended noise levels.

8.3 All mechanical plant and other related equipment is to be designed to satisfy the requirements of the NSW Industrial Noise Policy.

8.4 4 Internal background noise level targets:

Room Type / Space	Recommended internal noise level, dBLAeq	
	Lower	Upper
Apartment Living Areas	35	40 (50 windows open)
Apartment Sleeping Areas (between 10pm and 7am)	30	35 (45 windows open)
Communal (and Community Spaces) (AS2107:2000)	45	50

9. WASTE MANAGEMENT

9.1 Material to be removed from the site must be source separated on site to maximise recycling, and the material disposed of to an appropriate disposal and recycling facility in accordance with the Waste Management Plan prepared by CPM Consulting, dated ~~19 May 2010~~ **1 April 2011**.

9.2 Operational Waste Management will be undertaken in accordance with the Operational Waste Management Plan prepared by ~~ARUP~~ **Elephant's Foot Recycling Solutions** dated ~~July 2010~~ **June 2013**.

10. CONSTRUCTION MANAGEMENT

Undertake the construction process in accordance with the Construction Management Plan prepared by CPM consulting dated 1 April 2011 to ensure that potential impacts from construction and construction traffic are minimised.