

# 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 dated 14 September 2011, the Planning Assessment Commission approves the modification of the project application referred to in Schedule 1, subject to the conditions in Schedule 2.



**Donna Campbell (Chair)**  
**MEMBER OF THE COMMISSION**



**Gabrielle Kibble**  
**MEMBER OF THE COMMISSION**

Sydney

27 February 2013

### 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 facilitate staged construction and occupation and modify affordable housing provision.

## SCHEDULE 2 CONDITIONS

### 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:
- Architectural drawings 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;
  - Preferred Project Report prepared by City Plan Services Pty Ltd, dated April 2011;
  - 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
  - The Draft Statement of Commitments ~~contained in the Preferred Project Report~~ **submitted with the Section 75W Modification Application** prepared by City Plan Services Pty Ltd, dated **October 2012** ~~April 2011~~.

Except for:

- 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
- Otherwise provided by the conditions of this approval.

### PART B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

Condition B3 is modified as follows:

#### Building Height

- B3. 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 the~~ **Construction Certificate for the above-ground non-residential and residential components of the development.**

Condition B5 is modified as follows:

#### Affordable Housing

- B5. In accordance with the requirements of cl.6 (b)(iv) of the North Sydney Development Control Plan 2002, 4% of dwelling space (net dwelling area, excluding serviced apartments) must be dedicated to North Sydney Council for Affordable Housing **prior to issue of the Occupation Certificate for the residential component of the development.**

**Written** agreement is to be reached with North Sydney Council ~~over~~ **for the general** location and mix of these units prior to issue of ~~any the~~ **Construction Certificate for the residential component of the development. If agreement is not achieved within a reasonable time frame (4-6 weeks), the Proponent is to consult with and obtain the approval of the Director-General to determine the number, location and reasonable mix.**

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 ~~Construction~~ **Occupation Certificate for the building**.

**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.**

~~This amount, if~~ **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](http://www.northsydney.nsw.gov.au).

Condition B38 is modified as follows:

### **BASIX Commitments**

B38. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this Project Approval that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Proponent, referenced on and accompanying the issued Construction Certificate **for the residential component of the development**, fully satisfy the requirements of this condition. In this condition:

- a) relevant BASIX Certificate means:
  - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

## **PART E – PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

Condition E2 is modified as follows:

### **Dedication of Affordable Housing Units**

E2. Prior to the issue of any ~~interim~~ Occupation Certificate **for the residential component of the development**, the Proponent shall provide evidence that the Affordable Housing Units required to be dedicated (condition B5) to North Sydney Council have been so dedicated.