



10688
12 February 2014

Sam Haddad
Director-General
Department of Planning and Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Mark Brown (Senior Planner)

Dear Mark

**SECTION 75W TO MP10_0229
461 CAPTAIN COOK DRIVE, WOOLLOOWARE**

This Section 75W Modification has been prepared to modify the Concept Plan Approval (MP 10_0229) for the mixed use development at 461 Captain Cook Drive, Woollooware (Woollooware Bay Town Centre). It is submitted to the Minister for Planning and Infrastructure (or his delegate) pursuant to section 75W and Clause 12 of Schedule 6A of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) by JBA on behalf of Bluestone Capital Ventures No. 1 Pty Ltd (Bluestone).

This modification application relates to the followings amendments of the Concept Plan Approval:

- Increase in the maximum area of the Club outdoor deck area;
- Increase in the maximum plant height of Building F to facilitate a communal rooftop cinema;
- Increase in the maximum parapet height for a portion of Building E1 and G to allow for maisonette style penthouse apartments;
- Increase in the stepped and overall parapet height of Building G to account for design development;
- Inclusion of a condition to guide the provision of maisonette style penthouse apartments and open space areas on rooftops; and
- Provision of clarity and increased discretion to Council on the relevance and application of future environmental assessment requirements.

This letter describes the proposed modifications to the approved Concept Plan, and includes an assessment of the proposal against the relevant considerations of the EP&A Act. It should be read in conjunction with the Concept Plan Approval (MP 10_0229) and the following documents:

- Revised Residential Concept Plan Drawings prepared by Turner & Associates (**Attachment A**); and
- Letter prepared by McLaren Traffic Engineering (**Attachment B**).

1.0 BACKGROUND

1.1 Concept Plan Approval

On 27 August 2012, the NSW Planning Assessment Commission (PAC) approved Concept Plan Application MP10_0129 for the redevelopment of the Cronulla Sutherland Leagues Club site at 461 Captain Cook Drive, Woollooware and associated land for:

- use of the site for a mixed use development with associated public open space;
- indicative building envelopes for the residential and retail / club precinct;
- above ground car parking;
- road works to support the development;
- public pedestrian and cycle paths / boardwalks;
- landscaping areas throughout the site;
- sales and marketing facilities including display units, etc; and
- superlot subdivision of Lot 11 DP 526492.

1.2 Retail/Club Project Approval

On 22 August 2013, the PAC granted Project Approval to the Retail/Club Precinct (MP10_0230). This Project Approval provides consent for the development of a new retail centre with over 26,000m² of floorspace including a full-line supermarket, mini-majors, speciality retail, leisure uses, a food court and a new medical centre. In addition, the PAC approved construction of Woollooware Road North and intersection upgrades to Captain Cook Drive, foreshore upgrades and public domain improvements along the Captain Cook Drive street frontage. The Cronulla Sutherland Leagues Club will also be refurbished with a new outdoor terrace area overlooking Sharks Stadium and Woollooware Bay.

A section 75W modification to MP10_0230 was approved on 10 February 2014 for minor amendments to the club fitout, amended stratum subdivision and removal of the retail tenancy on the corner of Captain Cook Drive and Woollooware Road North.

1.3 Residential Precinct - Stage One Development Approval

On 22 August 2013, the Sydney East Joint Regional Planning Panel (JRPP) granted approval to the first stage of the residential precinct. This approval provides consent for the demolition of existing structures on the site; construction of a two level podium containing car parking, communal facilities, commercial tenancies and an estate management office; three residential flat buildings above the podium levels containing 220 apartments; provision of infrastructure and services including access roads; and associated landscaping and public domain works. During the assessment process, it became evident to both Council and the proponent that a number of conditions contained in Schedule 3 of the Concept Plan Approval could be clarified to provide greater certainty as to their intended effect on the assessment of residential Development Applications.

During the design development of the first stage of the residential precinct, Bluestone have identified that a more efficient use of space within the approved maximum building envelope is achievable. The use of space will constitute the provision of open space on building rooftops available for use by residents and maisonette apartments. The modification proposed within this application will not result in any height exceedance being acceptable above the maximum plant height approved under the Concept Plan. Accordingly, a section 96 modification is currently being prepared to this Development Approval to account for a number of design development elements, as well as the following key modifications:

- the inclusion of an outdoor cinema and amenities area on the north western rooftop of Building F; and

- the reconfiguration of Apartments E1.12.01 and E1.12.06 to provide two maisonette style apartments.

The ideal of providing maisonette style penthouse apartments is intended to be carried throughout the Stages 2 and 3 developments. At this stage, the design of Stage 2 is more advanced than Stage 3, with lodgement of the Development Application for Stage 2 envisaged for mid-2014. As such, the location of the two storey penthouse apartments is known and has been nominated on the Concept Plan drawings (the northern portion of Building G). The proposed modifications to the Concept Plan sought under this application will facilitate the above amendments to the residential Development Approval.

2.0 DESCRIPTION OF PROPOSED MODIFICATION

2.1 Overview of Proposed Modifications

Club Outdoor Deck

Following the approval of the Retail/Club development (MP10_0230), design development has occurred and efficiencies in the layout and design of the development have been identified. One of the key design development changes is the expansion of the outdoor deck associated with the Cronulla Sutherland Leagues Club from 943m² to 1,055m². This increased deck area was identified as desirable for future club users and an improvement on the currently underutilised outdoor deck area. In light of the above, the maximum deck area specified under Condition A3 of the Concept Plan is sought to be amended.

Increased Maximum Plant Height of Building F

The maximum parapet height of Building F is proposed to be slightly increased as part of this modification to account for the lift overrun. As described in **Section 1.3**, a section 96 application is being prepared for the inclusion of an outdoor cinema and amenities area on the north western rooftop of Building F. In order to achieve equitable access to this rooftop space, a lift needs to be provided which will exceed the current maximum plant height limit. The proposed increase in height is 1.15 metres to RL36.5.

Increased Maximum Parapet Height of Buildings E1 and G

A portion of the maximum parapet height of Buildings E1 and G is proposed to be increased to accommodate the second level of future penthouse apartments. These increased parapet heights are restricted to the northern side of the buildings and are proposed to be the same height as the approved maximum plant height for the respective buildings (RL50.85 for both buildings).

Increased Step and Overall Parapet Height of Building G

The initial step height and overall parapet height of Building G is proposed to be marginally increased to account for design development of the building. In the detailed design of the development, Turner have identified that the floor to floor heights of the building levels and the provision of a transfer beam in the podium will require minor increases in the step and overall height. The initial step at Level 8 is proposed to increase by 0.8 metres to RL36.05 and the overall parapet height is proposed to increase by 0.9 metres to RL48.55.

This increase in the overall parapet height applies to the southern portion of the building and does not affect the amended parapet height proposed on the northern portion of the building to accommodate the future penthouses.

Penthouse and Rooftop Open Space Condition

An additional Concept Plan condition is sought to be included in the Approval to guide the provision of open space on rooftop areas and maisonette style penthouse apartments across the residential precinct. The proposed Condition of Approval to be included in the Concept Plan Approval is set out in **Section 2.2** below. This condition will establish criteria for the assessment of open space on rooftop areas or maisonette style penthouse apartments when proposed.

This condition will only be applicable when the proposed open space or maisonette style apartments are contained wholly within the maximum plant height limit for the building. Due to the uncertainty of the location of the penthouse apartments in Stage 3 of the Residential Precinct, this condition has been designed to enable the provision of these apartments where certain considerations are satisfied and the apartments do not exceed the maximum plant height.

Environmental Assessment Requirements

Minor modifications to several Concept Plan conditions are proposed to ensure that Council has certainty in applying conditions that apply to the entire Concept Plan scheme when assessing individual Development Applications for the site. These conditions will ensure that only those conditions relevant to an individual application are required to be assessed by Council.

The modifications proposed necessitate a number of amendments to the Conditions of Approval as set out below.

2.2 Proposed Modifications to the Concept Plan Approval

In light of the modifications described above, several amendments to the Concept Plan Approval are sought. These amendments to existing Conditions of Approval and the inclusion of an additional Condition of Approval will facilitate the modifications set out above. The words proposed to be deleted are shown in ~~***bold italics strikethrough***~~ and those inserted are shown in ***bold italics***.

SCHEDULE 2

A2. DEVELOPMENT IN ACCORDANCE WITH PLANS AND DOCUMENTATION

The approval shall be generally in accordance with MP 1 0_0229 and the Environmental Assessment, prepared by JBA Planning dated September 2011, except where amended by the Preferred Project Report prepared by JBA Planning dated March 2012 and additional information submitted in May 2012 and in August 2012, ***and the S75W Modification No. 1 prepared by JBA dated 12 February 2013,*** and the following drawings:

Concept Plan Drawings Prepared by Turner & Associates			
Drawing No.	Revision	Name of Plan	Date
A006	F G	Envelope Diagram Roof Level	05/03/12 29/01/14
A025	B C	Envelope West Elevation – Building A, B, C & D Envelope East Elevation – Building E, G & H	05/03/12 29/01/14
A026	B C	Envelope South Elevation – Building C & B Envelope North Elevation – Building B, E & F	05/03/12 29/01/14
A027	B C	Envelope South Elevation – Building A, E & F Envelope North Elevation – Building D & H	05/03/12 29/01/14
A028	B C	Envelope West Elevation – Building F, G & H Envelope East Elevation – Building A, B, C & D	05/03/12 29/01/14

A3. MAXIMUM GROSS BUILDING AREA / GROSS FLOOR AREA

...

The maximum area for the outdoor deck areas shall not exceed ~~1,796~~ ***1,908***m², comprising:

- ~~943~~ ***1,055***m² for the Club; and
- 853m² for the Retail.

A8(A). PENTHOUSE APARTMENTS AND USE OF ROOFTOP AREAS

Minor variations to the maximum parapet height are acceptable in future applications for residential development, but only for the following reasons:

- *Provision of private/communal open space on rooftop areas; and*
- *Provision of maisonette style apartments.*

When considering if a variation is minor, the consent authority is to take into account the following matters:

- *No portion of the building is to exceed the maximum plant height;*
- *The protrusion is to be well integrated into the design of the building;*
- *Where possible the protrusion is to screen plant material; and*
- *The variation is to not result in any adverse environmental impacts such as significant overshadowing or an adverse visual impact.*

SCHEDULE 3

2. Future applications for the Retail and Club Precinct shall ensure that the frontages to Captain Cook Drive, Woollooware Road and the riparian zone are activated at ground level **where appropriate** and demonstrate sufficient articulation to the satisfaction of the consent authority.
3. Future applications for the Residential Precinct shall ensure that the frontages to Captain Cook Drive, tidal creek adjacent the western grand stand, Solander Fields and the riparian zone are activated at ground level **where appropriate**, including individual direct street address for all ground floor units, and demonstrate sufficient articulation to the satisfaction of the consent authority.
17. Future applications shall demonstrate the treatment of the boulevard within the Residential Precinct to ensure that this area is activated throughout the day **where appropriate**.

Inclusion of note at the end of Schedule 3:

Note: Conditions within Schedule 3 only apply to future applications where relevant to the development proposed in that application. The relevance of the conditions is to be determined by the consent authority.

3.0 TRANSITIONAL ARRANGEMENTS – PART 3A

Under clause 3C of Schedule 6A of the EP&A Act, section 75W continues to apply for the purpose of modification of a Concept Plan or Project Application approved before or after the repeal of Part 3A. As such the Minister may modify Concept Approval MP10_0229 and Project Application MP10_0230.

4.0 ENVIRONMENTAL ASSESSMENT

The assessment contained below has been prepared to address the matters relevant to the proposed modification. Due to the nature of the proposed modifications, it is highlighted that a detailed assessment of the potential environmental impacts will be undertaken by the relevant consent authority at the time of the detailed application.

4.1 Built Form/Visual Impact

The minor increases in height and the provision of Condition A8 will not result in any excessive amendment to the built form or visual impact of the proposal. The proposed increases in height are restricted internally to the site and in the majority of instances will facilitate the provision of elements offset from the edge of the future buildings.

It is noted that only a single increase in the overall plant height is sought as part of this modification. The remaining increases relate to parapet heights which will not exceed the approved maximum plant height for those buildings. As illustrated in **Section 2.0**, all increases in height are minimal and are designed to provide an improved amenity for future occupants whilst not adversely impacting the visual presentation of the built form.

The provision of maisonette style penthouse apartments on Buildings E1 and G will contribute to enhancing the built form through screening plant material and providing additional articulation to the residential buildings. This will contribute to the achievement of Condition 1 in Schedule 3 of the Concept Plan Approval, which requires all future applications to:

*...demonstrate that the development achieves a high standard of architectural design incorporating a high level of **modulation / articulation** of the buildings and a range of high quality materials and finishes.*

(our emphasis added)

The provision of modulation and articulation above the maximum parapet height has been provided on Building E1 in the first stage of residential development. This variation was in the form of raising the parapet at the north eastern corner of Building E1 to create a double height space and screen rooftop plant material.

In its assessment report for the first stage of the residential precinct, Council noted that the variation to the maximum parapet height was acceptable as it is was minor and had no material impact to the surrounding locality:

The variations proposed are minor and are not considered to have a significant material impact. Despite the envelope protrusions, the proposed building volume is lower than the maximum building volume approved under the Concept Plan, as reflected in the maximum permitted GBA.

*The separation of building E into two separate buildings has reduced the overall bulk of the building and improves internal unit amenity. The provision of the pool deck area (as part of stage 2) provides additional communal area and social opportunities to residents. **The variations are considered to be minor and do not impact on the surrounding locality. Council raises no objections to the variations proposed.***

(emphasis added)

As evidenced from the above, Council has been of the opinion that minor variations above the maximum parapet height, but consistent with the maximum plant height, are acceptable. The proposed condition to be included in the Concept Plan Approval will allow for these variations, but only if deemed minor by Council. **Figure 1** illustrates the minor variation approved by Council in the residential Development Approval.

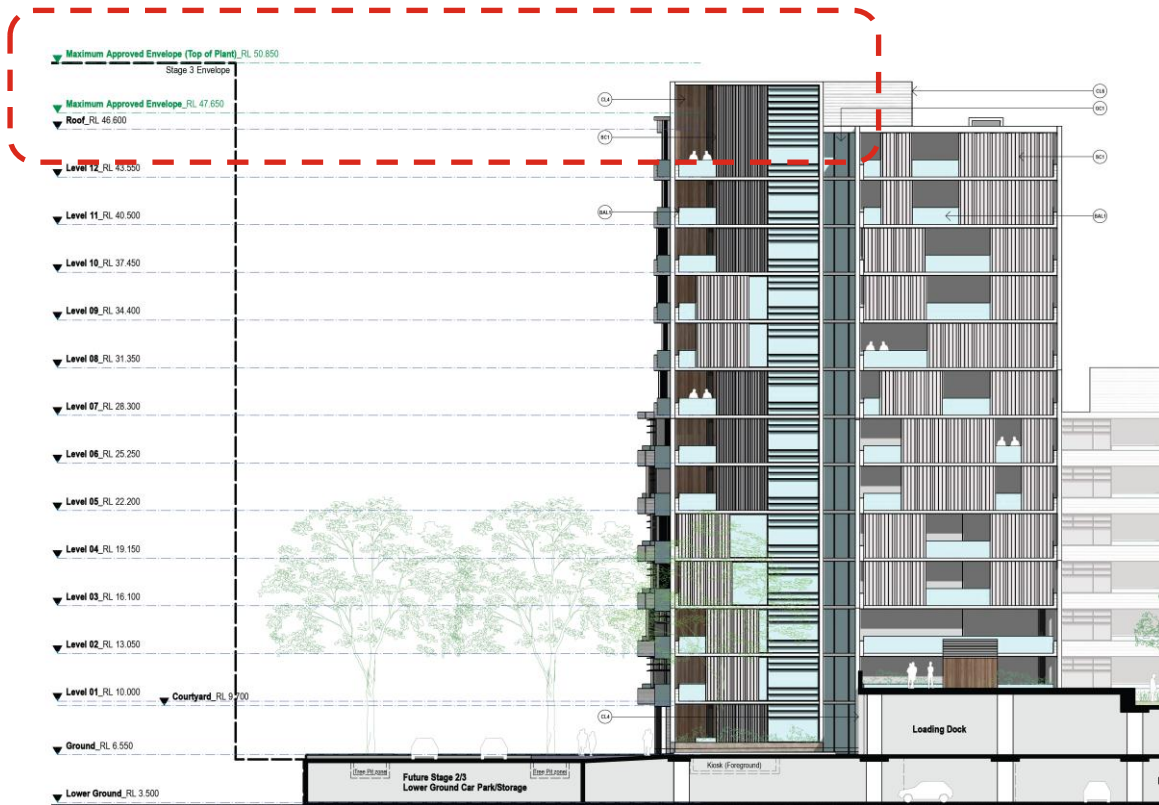


Figure 1 – Northern elevation of Building E1 (variation outlined in red)

Source: Turner

In the case of the above example, the provision of the amended parapet height in the Concept Plan Approval will enable a maisonette style apartment to be provided within this double void space. The provision of an additional level within the apartment will result in the ‘filling in’ of the void space, but will not result in any material height increase above the maximum plant height. There would be minimal visual change in the façade, with the key articulation of the extended parapet level unaltered. In essence, there will be a negligible, if not positive, impact on the articulation of the buildings, with greater variation in building elements and the maximisation of space within the building envelope. This will also be the case for Building G, with an enhanced potential for more articulation and modulation at the upper levels of the building.

4.2 Overshadowing

The proposed increases in the maximum allowable parapet and plant height limits will not result in any significant overshadowing impacts not yet assessed under the original Concept Plan Approval. The majority of overshadowing will be contained within the site and no impacts will occur to any surrounding uses. Importantly, the future applications for the detailed design of the buildings will address overshadowing impacts in detail.

4.3 Residential Amenity

The provision of the proposed height amendments and inclusion of the new condition within the Concept Plan Approval will enable the future provision of spaces designed to enhance the amenity of the residential development for future occupants. For instance, the provision of open space on the rooftop areas of buildings within the residential precinct will result in additional communal open space for residents, and will facilitate the provision of high quality facilities not ordinarily provided in comparative developments.

An example of these high quality spaces is exhibited in the section 96 currently being prepared to the approval of the first stage of development in the residential precinct. Within this section 96 modification an outdoor cinema and amenities area is to be included on the north western rooftop of Building F. This area will be open to all residents within the Woollooware Bay Town Centre and provide significant amenity, with a cinema area and adjoining kitchen facilities.

The location of this space is optimal for use by future residents as it is well located within the site to capture views and minimise any potential impacts to surrounding residents. Furthermore, the use of rooftop spaces within the residential precinct are likely to have a negligible visual presence when viewed from the ground plane. The minor increase in the maximum plant height required to facilitate access to this rooftop space will not result in any adverse impacts as it will be contained in the centre of the roof, ensuring that it is not visible from the ground level public domain.

As is the case with the current section 96 modification, the only visual element from the ground plane is a glass balustrade providing safety to users of the rooftop. In any case, the criteria prescribed within the proposed condition will allow Council to assess the potential impact of a variation.

4.4 Active frontages

As described in **Section 2.2** above, the inclusion of the phrase 'where appropriate' is proposed to be included in Conditions 2, 3 and 17. These conditions relate to the activation of frontages, and the inclusion of this phrase is designed to provide clarity to Council that every portion of the frontage does not strictly need to be activated. The clarity provided within the Condition will reflect the realistic nature of the development that not every metre of the frontage is capable of being activated. The proposed modification to these conditions does not alter the onus to provide active frontages in these locations, but allows a realistic implementation of the condition.

4.5 Traffic and parking

No change is proposed to the quantum of parking provided as a result of the proposed amendments. The proposed modifications have been reviewed by McLaren Traffic Engineering (**Attachment B**), who advise that the additional outdoor deck area will not result in an increase in the demand for parking within the precinct. Use of the club deck is ancillary to the other demand-generating spaces within the precinct (i.e. the Leagues Club and Shark Stadium) and the deck does not, in itself, give rise to any additional demand for parking. Notwithstanding this, previous transport assessments for the precinct have indicated that there is ample parking provided in excess of the requirements of the retail/club precinct. In light of the above, it is considered that the increase in deck area and retail GFA will not impact upon the availability of parking within the precinct.

5.0 CONCLUSION

This modification to the Concept Plan Approval relates to minor design and administrative amendments; the inclusion of greater certainty for the future assessment of applications; and the facilitation of ongoing design changes as a result of design development. These modifications will ensure that the future development of the site proceeds in an efficient manner and achieves an improved design outcome.

The modifications are minor in nature and provide an avenue for these future variations whilst providing a framework for their assessment. In light of the benefits these modifications will enable, we recommend this Section 75W modification application be approved.

Should you have any queries about this matter, please do not hesitate to contact me (gkirkby@jbaplanning.com.au) or Brendan Hoskins (bhoskins@jbaplanning.com.au) on 9956 6962.

Yours faithfully

A handwritten signature in cursive script that reads "Gordon Kirkby".

Gordon Kirkby
Director