

21 January 2015
Our Ref: 7136F.2DK_S75W Mod

The Secretary
Department of Planning and Environment
GPO Box 39
Sydney 2000

Dear Madam,

Section 75W Modification
MP10 _0116 Residential Development – 300 Johnston Street, Annandale

1.0 Background and the Site

The subject site is known as 300 Johnston Street, Annandale and is legally described as Lot 2 in DP 1033147 and Lot 1 in DP 869536.

A Concept Plan application was approved by the Planning Assessment Commission on 22 March 2013 for a residential development comprising 23 two-storey townhouses above basement car parking.

Works have commenced on site with the demolition of buildings and excavation having taken place. Construction works are well advanced.

1.1 Summary of proposed modification

Minor modifications are proposed to the approved development, which are summarised as follows:

1. Amalgamation of Units 2 and 3 into one unit (reducing the total number of dwellings to 22) with changes to the parking layout to support the change;
2. Switch room and common toilet interchanged; and
3. Relocation of privacy screens to the southern façade and introduction other privacy treatments (deletion of Condition B2 of the approval).

Plans detailing the proposed modifications are included at **Attachment 1**. A further description and need for the proposed modifications is discussed in Section 3. The consequential amendments to the Concept Plan approval and Statement of Commitments are set out in Section 4.

2.0 Part 3A Transitional Provisions

Schedule 6A of the Environmental Planning and Assessment Act, 1979 (EP&A Act) sets out the transitional arrangements for the repeal of Part 3A of the Act. Clause 2 – Transitional Part 3A projects defines transitional Part 3A projects as follows:

- 2 (1) *The following are, subject to this Schedule, **transitional Part 3A projects**:*
- (a) *an approved project (whether approved before or after the repeal of Part 3A),*
 - (b) *a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),*

In this instance the Concept Plan application was approved after the repeal of Part 3A and is therefore a transitional Part 3A project.

Clause 3 of Schedule 6A provides that *“Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of a transitional Part 3A project.”* The repealed provisions of Part 3A continue to apply to the Concept Plan approval, which includes section 75W dealing with modifications of approvals.

3.0 Need for the Modification

3.1 Amalgamation of units 2 and 3

The proponent proposes to amend the design to amalgamate two x three bedroom dwellings to create one x four bedroom dwelling with a study. This provides a layout with a large ground floor living/dining kitchen area with access to the courtyards on the northern and southern sides with four bedrooms located on the upper level. The reason for the amendment is to provide a minor variation to the unit mix within the development.

3.2 Amendments to car parking layout

The car parking layout has been amended to suit the amalgamation of Units 2 and 3. Originally the car parking spaces for Units 2 and 3 were separated by one of the visitor car parking spaces. The amended car parking layout has shifted the visitor car parking space to allow the two car parking spaces for the amalgamated unit to be provided side by side. Car parking space No. 3 was originally approved as a 3.8m wide accessible car parking space. This has been retained along with direct access from the car parking spaces to a private lift accessing the modified unit above.

The amended car parking layout result in the same number of car parking spaces being provided, albeit in a slightly different arrangement. There is no change to the manoeuvring/swept paths of vehicles within the basement.

3.3 Amended privacy screen location (southern elevation)

The s.75W Modification proposes to relocate the privacy screens from the northern edge of the elevated walkway to the southern façade of the building and introduce a different privacy treatment to the northern edge of the walkway.

Condition B2 of the Concept Plan Approval is a design modification that requires as follows:

“The privacy screens proposed along the southern elevation of the proposed development are to be removed, and replaced with similarly designed privacy screens along the northern side of the elevated walkway.”

This s.75W Modification proposes to delete Condition B2 as the amended plans provide an alternative solution to privacy and daylight access.

The architect and developer have concerns about the resultant architectural appearance of the privacy screen if it is attached to the edge of the walkway as per Condition B2. The condition will require a screen in the form of a continuous series of panels that will need to run the full length of the building/walkway creating a large expanse of screen that will be visible from Bayview Crescent. The screen as required by Condition B2 will be somewhat disconnected from the building and not appear as a well resolved architectural solution for the building. This is not considered to be a good design outcome.

An alternative solution is now proposed that will create a better design outcome in line with the architect's original vision whilst still achieving the privacy and daylight objectives of the condition. The combination of privacy measures includes:

- A 1.5m high opaque glass balustrade along the northern side of the walkway to screen views down to the courtyards and lower level rooms (level 1).
- A combination of laser cut panels and horizontal fixed louvres are retained to the upper level (level 2) to maintain privacy to those rooms. These rooms, being elevated, will achieve sufficient daylight due to the ratio of solid to open sections on the panels. There has been some adjustment to the location of screens following the amalgamation of Units 2 and 3.
- More open structured privacy screens are proposed to some of the lower level (level 1) bedrooms and studies that will allow for greater daylight access whilst still providing some level of privacy. These screens can be more open in nature as the 1.5m high opaque glass balustrade along the northern edge of the walkway will be the primary device to provide privacy to the lower level rooms.

The primary purpose behind the proposed modification is to improve the architectural appearance of the building by providing the screens as part of the building façade rather than appearing as a disconnected free standing element / fence along the edge of the walkway.

Whilst the condition does not specify its purpose it is understood that the rationale behind the condition related to privacy and increased daylight access. Drawing No. 680 (**Attachment 1**) illustrates the three building elements to address privacy. The residential amenity considerations (privacy and daylight access) are addressed below.

DFP provided commentary on the draft determination (including the above condition) when the application was being considered by the PAC. Our previous comments were that the privacy screen provides a two-fold purpose being privacy from the walkway and as an architectural feature to the southern elevation of the building. The privacy screens were designed as laser cut panels to form an integral part of the elevation and architectural feature to the building. The relocation of the screens in conjunction with the opaque balustrade can still achieve the privacy function.

The laser cut panels, combined with the opaque balustrade will ensure that privacy to upper level rooms is achieved. Daylight access can still be received to these rooms due to their elevated position and balance of solid to open areas of the laser cut panels.

The lower level rooms that will receive less daylight (being below street level) do not require the same density of privacy screen as the opaque balustrade prevents views downwards from the walkway. Therefore, more open style screens (or no screening) can be employed to the lower floor windows thereby achieving daylight access.

Condition B2 is proposed to be modified to delete the condition as the replacement architectural plans that will form part of the approved set of plans achieve the desired intent of the condition.

3.4 Relocation of toilet and switch room

The location of the common property toilet and switch room have been swapped. The main reason for the change is to locate the switch room centrally within the basement to allow for more efficient installation of cabling from the switch room to the dwellings. This relocation does not have any effect on the remainder of the building.

3.5 Schedule of Proposed Amendments to Concept Plan approval MP06_0094

Amend the project description as follows:

Section of the Approval	Proposed Amendment																																				
Schedule 1																																					
Part A: Particulars	<p>Residential development including:</p> <ul style="list-style-type: none">• Construction of 23 <u>22</u> two-storey townhouses within 5 buildings;• Basement car park comprising 23 resident car parking spaces and 7 visitor parking spaces;• 23 <u>22</u> lot strata subdivision;• Removal of existing vegetation and excavation of the site;• Landscaping, stormwater management and waste facilities throughout the site;• Derailment barrier.																																				
Schedule 2																																					
Condition A1	<p>Concept approval is granted to the development as described below:</p> <p>(a) Demolition of all existing structures on the Johnston Street site;</p> <p>(b) A residential development involving a maximum of 23 <u>22</u> residential townhouses comprising:</p> <ul style="list-style-type: none">i. 24 <u>19</u> three-bedroom townhousesii. 2 two-bedroom townhousesiii. <u>1</u> four-bedroom townhouse <p>(c) Single level basement car park;</p> <p>(d) Landscaping and open space areas; and</p> <p>(e) Strata Subdivision into 23 <u>22</u> lots</p> <p>(f) Left in and left out only access from Johnston Street.</p>																																				
Condition A2	<p>Amend the table of approved drawings as follows:</p> <table><tr><th>Drawing No</th><th>Revision</th><th>Name of Plan</th><th>Date</th></tr><tr><td>A100</td><td>C</td><td>Basement Plan</td><td>19.09.2014</td></tr><tr><td>A101</td><td>C</td><td>Level 1 Floor Plan</td><td>19.09.2014</td></tr><tr><td>A102</td><td>C</td><td>Level 2 Floor Plan</td><td>19.09.2014</td></tr><tr><td>A104</td><td>C</td><td>Adaptable Units</td><td>03.12.2014</td></tr><tr><td>A200</td><td>C</td><td>Elevations</td><td>03.12.2014</td></tr><tr><td>A201</td><td>A</td><td>South Elevation</td><td>03.12.2014</td></tr><tr><td>A680</td><td>A</td><td>Privacy Screen</td><td>03.12.2014</td></tr><tr><td>A690</td><td>A</td><td>Privacy Screen Detail</td><td></td></tr></table>	Drawing No	Revision	Name of Plan	Date	A100	C	Basement Plan	19.09.2014	A101	C	Level 1 Floor Plan	19.09.2014	A102	C	Level 2 Floor Plan	19.09.2014	A104	C	Adaptable Units	03.12.2014	A200	C	Elevations	03.12.2014	A201	A	South Elevation	03.12.2014	A680	A	Privacy Screen	03.12.2014	A690	A	Privacy Screen Detail	
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Condition B2	<p>The following design modifications shall be incorporated into the Construction Certificate drawings:</p> <p>(a) The privacy screens proposed along the southern elevation of the proposed development are to be removed, and replaced with similarly designed privacy screens along the northern side of the elevated walkway; and</p> <p>Revised plans and elevations are to be submitted demonstrating an improved level of privacy to the bedrooms along the southern elevation of the development shall be submitted to the Director-General for approval prior to the issue of a Construction Certificate.</p>																																				

4.0 Consultations

There is no change in building height, no increase in dwelling density or reduction in car parking provisions. The external appearance of the building also remains unchanged, with the exception of the change in the location of the privacy screens (which is considered to be an improved design outcome). Because the modifications are very minor in nature and all occur within the approved building envelope, the main stakeholders from the original application (including the community, Leichhardt Council and light rail authorities) have not been consulted as it assumed that the Department will undertake its own consultations, as deemed necessary. In our opinion it should not be necessary to consult with the light railway authorities as there are no changes to the elevation that relate to their previous concerns.

5.0 Environmental Assessment

5.1 External Appearance

The main change to the external appearance of the building is the relocation of the laser cut panels from the northern edge of the walkway to the southern façade of the building. This will improve the architectural appearance of the building by using them as an architectural device closer to the façade, rather than the screens appearing as a tall extension of the balustrade to the elevated walkway.

If the panels are installed on the northern edge of the walkway they will appear disconnected from the remainder of the building, whereas their location on the southern façade will ensure that they appear as an integral part of the building's architecture.

5.2 Accessibility

The approved development contained two adaptable dwellings (Units 1 and 3). The proposed modification will amalgamate units 2 and 3. The resultant dwelling will be retained as an adaptable apartment. The accessible car parking space previously allocated to unit 3 will now be allocated to the amalgamated dwelling with a dedicated lift providing direct access to the apartment.

The amended layout has been reviewed by Accessible Building Solutions (who prepared the Access Report for the approved Concept Plan application). Accessible Building Solutions has confirmed that the amalgamated unit can comply with AS 4299 as an adaptable unit and that the basis of the original assessment report is unchanged. A copy of their letter is provided at **Attachment 2**.

5.3 State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004

Under the Environmental Planning and Assessment Regulation 2000, the proposed dwellings comprise BASIX affected buildings.

A new BASIX certificate has been obtained demonstrating compliance with the thermal comfort, water conservation and energy efficiency targets using the most recent BASIX Model. The new Model has resulted in the need for R1.5 bulk insulation for the roof. The certificate is provided at **Attachment 3**.

6.0 Consistency with the Concept Plan and Project Approvals

The proposed modification does not significantly alter the approved development. It remains that of a residential development within the approved building envelope.

The dwelling density has been reduced by one dwelling, but the total number of car parking spaces remains unchanged. The external appearance of the building is also unchanged as the



privacy screens are simply moved from the walkway closer to the face of the building which will improve the architectural appearance of the building.

The proposed modification is therefore considered to be consistent with the Concept Plan approval.

7.0 Summary and Conclusion

The proposed modification to the Concept Plan approval is submitted in accordance with the now repealed provisions of section 75W of the Act to request that the Minister modify the Concept Plan Approval and Statement of Commitments forming part of the Concept Plan Approval.

The proposed modifications do not alter the approved building envelope and are considered to retain consistency with the original approvals.

The amended solution to the management of privacy and daylight access will improve the architectural appearance of the building and amenity for the prospective residents.

We therefore recommend that the Concept Plan Approval is amended as set out in this letter. Should you have any questions in relation to this application please do not hesitate to contact David Kettle on 9980 6933.

Yours faithfully

DFP PLANNING PTY LTD

A handwritten signature in black ink, appearing to read 'D. Kettle', written over a horizontal line.

**DAVID KETTLE
DIRECTOR**

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Reviewed: _____

A handwritten signature in black ink, appearing to read 'E. R. H.', written over a horizontal line.

Attachments

- 1 Amended plans
2. Access statement
3. BASIX Certificate