

16 March 2015

The Minister
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam,

Re: Section 75W Modification (MOD 6) of Concept Approval (MP 10_0112) and Project Approval (MP 10_0113) - Nos. 110-114 Herring Road, Macquarie Park

On behalf of Stamford Property Services, we hereby lodge a Section 75W Modification application to amend the Concept Approval (MP10_0112 as modified by MOD 4) Stage 1 Project Approval (MP10_0113 as modified by MOD 4).

The proposed modifications to the Concept Approval include:

1. Modify Condition A2 to amend the approved plans in order to raise the podium level by approximately 600mm, which is a result of rationalising the construction methodology.

The proposed modifications to the Project Approval include:

1. Modify Condition A2 to amend the approved plans and reconcile the Project Approval with the modifications proposed under MP10_0112.
2. Modify Condition D19 to amend the compliance timeframe for the *Work-As-Executed Plan* to reflect the proposed staging for the issue of the occupation certificate.
3. Modify Condition D24 to amend the compliance timeframe for the *Dedication of Affordable Housing to Council* to reflect the proposed staging for the issue of the occupation certificate.
4. Delete Condition F5 *Road Damage* from the Project Approval and defer it to the Stage 2 development application, currently being assessed by Council. For the purposes of accurately assessing damage to roads, the compliance timeframe is suggested to be prior to the issue of the final occupation certificate, which will be in Stage 2. The construction works will continue on stage 2 upon completion of Stage 1 works.
5. Modify Condition F6 to amend the compliance timeframe for the *Registration of Easements* to reflect the proposed staging for the issue of the occupation certificate.
6. Modify Condition F8 for the *Travel Access Guide/Green Travel Plan* to include consideration of a *Car Share Scheme*.
7. Delete Condition F9 from the Project Approval as consideration of a Car Share Scheme will be provided in the *Travel Access Guide/Green Travel Plan* as per Condition F8.
8. Delete Condition F11 Post-Construction Dilapidation Report from the Project Approval and defer it to the Stage 2 development application, currently being assessed by Council. The construction works will continue on stage 2 upon completion of Stage 1 works. Therefore, for the purposes of accurately undertaking a post-construction dilapidation report the compliance timeframe is suggested to be prior to the issue of the final occupation certificate, which will be in Stage 2.

9. To modify the relevant Statements of Commitments in MP10_0112 (as modified) to reflect the approval.

Changes are also proposed to the approved Schedule 3 Statement of Commitments with reference to the apartment mix (to reflect the approved MOD 4), car parking (to reflect MOD 3), car share and affordable dwellings.

The proposal is the subject of a Section 75W Modification as the modifications do not constitute a 'radical transformation' to the Concept and Stage 1 Project Approvals. The proposed modifications relate to administration and minor design matters only, in particular the podium level and occupation certificate timeframes. As the proposed modification will not result in any changes to the approved use and form or significant changes to the envelope of the development, there will be no environmental impact over and above that of the approved project.

The submission contains: a brief background to the proposal; the conditions of project consent requested to be modified; a description of the proposed modifications; an environmental planning assessment; and a conclusion.

1 Background

The Concept Plan Approval and Stage 1 Project Approval were granted concurrently by the Planning Assessment Commission (PAC). Subsequent modifications to the Concept Plan Approval and the Project Approval pursuant to Section 75W of the Act have been submitted to, approved by and awaiting approval by the Department of Planning and Infrastructure (now the Department of Planning and Environment). They are as follows:

- **Concept Plan MP10_0112**

Concept Plan Approval (MP10_0112) was approved 26 September 2012.

- **Concept Plan MP10_0112 MOD 1**

Approved on 3 June 2013, the modification altered the approved building envelopes and resulted in a slight increase in residential FSR. The Planning Assessment Commission (PAC) whilst approving the additional FSR refused any additional parking for the approved residential floor space.

- **Concept Plan MP10_0112 MOD 2**

Approved 27 May 2014, the modification altered the apartment mix. Car parking numbers were modified as a consequence.

- **Concept Plan MP10_0112 MOD 3**

Refused on 21 November 2014, this Modification sought to amend Condition C5 of the Approval to apply a parking rate of 1 space per 1 bedroom, 2 bedroom and 3 bedroom apartments. The PAC also reduced the commercial parking rate from 1 space per 46sqm to 1 space per 100sqm.

- **Concept Plan MP10_0112 MOD 4**

Approved 16 February 2015, this modification sought a revised mix of apartments for Stage 1; modifications to the Brisbane envelope and facades of the Stage 1 buildings; relocation of the community room; conversion of the Sydney community room to a retail/commercial tenancy; and, modifications to the landscape design to reconcile with the revised road network as approved. The

proposed modifications are a result of design development and coordination prior to Construction Certificate stage.

- **Concept Approval MP10_0112 MOD 5**

Lodged 29 January 2015, MOD 5 to MP 10_0112 proposes modifications to reduce the total number of car parking spaces within the basement levels, to reflect MOD 3, which was refused by the PAC.

- **Project Approval MP10_0113**

Stage 1 Project Approval (MP10_0113) was approved 26 September 2012.

- **Project Approval MP10_0113 MOD 1**

Approved 27 May 2014, the modification was lodged concurrently with MP10_0112 MOD 2 to reconcile the Project Approval with the modifications approved under MP10_0112 MOD 1, and the new apartment mix and car parking numbers sought under the proposed Section 75W Modification to MP10_0112 MOD 2.

- **Project Approval MP10_0113 MOD 2**

Approved 18 September 2014, the modification amended Condition B29 to reflect NSW's current water rating system; Condition D1 to extend the construction hours to 7.00am - 7.00pm, Monday to Friday and 8.00am - 4.00pm, Saturdays; Compliance time frames for all conditions within Part B of the approval to reflect the proposed staging for the issue of construction certificates; and defer the requirement for a Section 73 Sydney Water Certificate until prior to issue of an Occupation Certificate.

- **Project Approval MP10_0113 MOD 3**

Refused 21 November 2014 to amend Condition B1 Car Parking to apply a parking rate of 1 car space per apartments. The determination not only refused the proposed modification, but reduced the parking rate for commercial development from 1 space per 46sqm to 1 space per 100sqm.

On 11 December 2014, Court Orders in relation to an appeal of the PAC determination resolved some uncertainty in the wording of the parking rates in Condition B1.

The refusal of this application has generated a need to modify the approved basement to reflect to approved car parking rates.

- **Project Approval MP10_0113 MOD 4**

Approved 16 February 2015 concurrently with the Modification to MP10_0112, this modification sought to reconcile the Project Approval with the modifications approved and proposed under MP10_0112 and MP10_0113. The current modification adjusts the previously approved basement car parking designs to reflect the car parking rates approved by determination of MOD 3 and the dwelling numbers and mix proposed in the application for MOD 4.

- **Project Approval MP10_0113 MOD 5**

As the PAC refused the application to provide increased on-site car parking it is now necessary to reduce the size of the basement to accommodate less cars. MOD 5 proposes modifications including a reduction in car park numbers reduced in accordance with MOD 3, reduction in

basement footprint, internal planning of the basement and additional storage facilities proposed in place of some of the previously proposed car parking.

2 Statutory Framework

2.1 PART 3A TRANSITIONAL PROJECTS

The project was declared to be a project to which Part 3A of the Act applies on 1 December 2008.

Following the repeal of Part 3A of the Act on 1 October 2011, the project continues to be subject to Part 3A of the Act pursuant to the transitional provisions provided in Schedule 6A of the Act. Clause 2 of the Schedule states, inter alia:

“2 Transitional Part 3A projects

- 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),*
 - (c) *a project for which environmental assessment requirements for approval to carry out the project, or for approval of a concept plan for the project, were last notified or adopted within 2 years before the relevant Part 3A repeal date (unless the environmental assessment is not duly submitted on or before 30 November 2012 or on or before such later day as the Director-General may allow by notice in writing to the proponent),*
 - (d) *a project for which an environmental assessment (whether for approval to carry out the project or for approval of a concept plan for the project) was duly submitted before the relevant Part 3A repeal date.”*

As the project is the subject of a Project Approval and a Concept Plan Approval, Part 3A of the Act continues to apply.

2.2 SECTION 75W OF THE ACT

Pursuant to Part 3A of the Act (as in force prior to its repeal), Section 75W provides that the proponent may request the Minister to modify the Minister’s approval for a project (including a project approval or a concept plan approval). Such modifications may include:

- (a) *revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
- (b) *changing the terms of any determination made by the Minister under Division 3 in connection with the approval.*

Section 75W does not limit the circumstances in which the Minister may modify a determination made under Division 3 in connection with the approval of a concept plan.

Further, clause 3C of Schedule 6A of the Act provides that s75W continues to apply for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A. Clause 3C of the Schedule states, inter alia:

“3C Modification of concept plans

- (1) Section 75W continues to apply for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.
- (2) This clause applies despite anything to the contrary in this Schedule (other than provisions relating to approval for the carrying out of a project or stage of a project that is given in connection with an approval to modify a concept plan).”

Legal advice was obtained from Norton Rose Australia, dated 26 November 2012, in relation to the modifications approved for the Concept Plan, and their consistency with the provisions of s75W. As the proposed modifications to the Project Approval reflect the modified Concept Plan, the advice from Norton Rose is considered to still apply. The advice states, inter alia:

“As you would be aware, the requirements of s75W of the Environmental Planning & Assessment Act 1979 (EP&A Act) have been considered by the Courts on several occasions. The Land and Environment Court has observed that the language of s75W is not constrained by the qualification (contained in s96 of the EP&A Act) that the development as modified be “substantially the same” as the development already approved (Williams v Minister for Planning (2009) 164 LGERA 204). In other words, the power under s75W to modify is broader than the test under s96. Biscoe J expressed the test another way, by stating that s75W does not contemplate a “radical transformation” of the terms of an existing approval (Williams v Minister).

The Court of Appeal subsequently cautioned against seeking to use any descriptive phrase to substitute for or explain the statutory language in s75W. That Court has noted that “the fact that there are no express standards to be applied in considering whether a particular request falls within the terms of the section itself gives rise to an inference that no essential precondition to the consideration of a request was intended” (Barrick Australia Ltd v Williams (2009) 74 NSWLR 733 at 401).”

We submit that the modifications proposed by this application do not constitute a ‘*radical transformation*’ to either the Concept Plan Approval or the Stage 1 Project Approval for the following reasons:

- The proposed use is the same as that approved under the Concept Plan Approval and the Stage 1 Project Approval.
- There are no variations proposed to the gross floor area, floor space ratio or open space as approved under the Concept Plan Approval (as modified) and the Stage 1 Project Approval (as modified).
- The increase in podium height is minimal and the overall heights of buildings are still below the maximum approved in the Concept Approval (as modified). There are not likely to be any environmental or amenity impacts over and above the approval.
- There will be no reduction of public open space on the site.

3 Proposed Modifications

The existing conditions and the proposed modification to these conditions are outlined below:

3.1 MODIFICATIONS TO THE CONCEPT APPROVAL

This Section 75W application proposes the following modification to the Conditions of Approval of the Concept Plan. Text proposed to be deleted is indicated by ‘strike through’ and text proposed to be added is indicated by bold text.

3.1.1 CONDITION A2 DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND DOCUMENTS

A2 The development shall be undertaken generally in accordance with:

- The Environmental Assessment prepared by JBA Planning (dated June 2011), except where amended by:
 - the Preferred Project Report (incorporating Response to Submissions) prepared by Urbis Pty Ltd (dated February 2012) including all associated documents and reports; and
 - the Section 75W Modification Application prepared by Urbis Pty Ltd dated January 2013, including all associated documents and reports; and
 - ⊖ the Section 75W Modification Application prepared by Urbis Pty Ltd (dated ~~August 2014~~ **February 2015**), including all associated documents and reports; and
- The **Final** Statement of Commitments prepared by Urbis Pty Ltd contained in the Section 75W Modification Application prepared by Urbis Pty Ltd dated **February 2015** contained at Schedule 3; and
- The following drawings:

| ARCHITECTURAL DRAWINGS | | | |
|------------------------|----------|------------------|----------|
| DRAWING NO. | REVISION | NAME OF PLAN | DATE |
| DA0000 | G | Cover Sheet | 31.07.14 |
| DA0100 | C | Staging Diagrams | 17.06.13 |
| DA2001 | E | Level B1 Plan | 17.06.13 |
| DA2002 | E | Level B2 Plan | 17.06.13 |
| DA2003 | E | Level B3 Plan | 17.06.13 |
| DA2100 | G | Level 00 Plan | 31.07.14 |
| DA2101 | G | Level 01 Plan | 31.07.14 |
| DA2102 | G | Level 02 Plan | 31.07.14 |
| DA2103 | H | Level 03 Plan | 31.07.14 |
| DA2105 | H | Level 05 Plan | 31.07.14 |
| DA2106 | E | Level 06 Plan | 31.07.14 |
| DA2107 | E | Level 07 Plan | 31.07.14 |
| DA2108 | E | Level 08 Plan | 31.07.14 |

| ARCHITECTURAL DRAWINGS | | | |
|--------------------------|----------------|--|------------------------------|
| DRAWING NO. | REVISION | NAME OF PLAN | DATE |
| DA2109 | E | Level 09 Plan | 31.07.14 |
| DA2110 | H | Level 10 Plan | 31.07.14 |
| DA2111 | F | Level 11 Plan | 31.07.14 |
| DA2112 | E | Level 12 Plan | 31.07.14 |
| DA2113 | F | Level 13 Plan | 31.07.14 |
| DA2115 | E | Level 15 Plan | 31.07.14 |
| DA2116 | E | Level 16 Plan | 31.07.14 |
| DA2901 | B | Resident's Outdoor Function Area Plan and Section | 20.01.15 |
| DA3100 | G H | South Elevation Epping Rd | 31.07.14 19.01.15 |
| DA3101 | G H | North Elevation | 31.07.14 19.01.15 |
| DA3102 | G H | East Elevation – (Herring Rd) West Elevation | 31.07.14 19.01.15 |
| DA3110 | G H | Section 1 | 31.07.14 19.01.15 |
| DA3111 | G H | Section 2 | 31.07.14 19.01.15 |
| DA3112 | G H | Section 3 and Section 4 | 31.07.14 19.01.15 |
| DA3113 | F G | Section 5 | 31.07.14 19.01.15 |
| DA4100 | C | Detailed Elevation Sheet 1 | 31.07.14 |
| DA3610 | F | Sunlight Access Diagrams Winter Solstice June 21 | 17.06.13 |
| DA3611 | F | Sunlight Access Diagrams Equinox March/September 21 | 17.06.13 |
| DA3612 Solstice 17.06.13 | F | Sunlight Access Diagrams Summer Solstice December 21 | 17.06.13 |

| ARCHITECTURAL DRAWINGS | | | |
|------------------------|----------|--|--------------|
| DRAWING NO. | REVISION | NAME OF PLAN | DATE |
| DA3630 | G | Views Sheet 01 | 04.08.14 |
| DA3631 | G | Views Sheet 02 | 04.08.14 |
| DA3632 | G | Views Sheet 03 | 04.08.14 |
| DA3633 | G | Views Sheet 04 | 04.08.14 |
| DA3634 | G | Views Sheet 05 | 04.08.14 |
| ARCHITECTURAL DRAWINGS | | | |
| 3 | | Landscape Concept Plan | 31 July 2014 |
| 4 | | Illustrative Sections Section A & B | 31 July 2014 |
| 5 | | Illustrative Sections Section C & D | 31 July 2014 |
| 6 | | Illustrative Landscape Sections Section E & F | 31 July 2014 |
| 7 | | Illustrative Landscape Sections Section G & H | 31 July 2014 |
| 8 | | Illustrative Sections Section I, J & K | 31 July 2014 |
| 9 | | Public Space Diagram | 31 July 2014 |

3.2 MODIFICATIONS TO THE STAGE 1 PROJECT APPROVAL

This Section 75W application proposes the following modification to the Conditions of the Stage 1 Project Approval (MP10_0113, as modified). Text proposed to be deleted is indicated by 'strike through' and text proposed to be added is indicated by bold text.

3.2.1 CONDITION A2 DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND DOCUMENTS

A2 Development in Accordance with Plans and Documentation

The Development shall be undertaken in accordance with the Environmental Assessment, except where amended by the Preferred Project Report (February 2012) and Response to PPR submissions (February 2012) including all associated documents and reports; the Section 75W

Modification Application prepared by Urbis Pty Ltd (August 2013) and (August 2014) and (February 2015), including all associated documents and report, the Statement of Commitments prepared by Urbis Pty Ltd contained at Schedule 3; and the following drawings:

| ARCHITECTURAL DRAWINGS | | | |
|------------------------|----------|------------------|----------|
| DRAWING NO. | REVISION | NAME OF PLAN | DATE |
| DA0000 | G | Cover Sheet | 31.07.14 |
| DA0100 | C | Staging Diagrams | 17.06.13 |
| DA2001 | E | Level B1 Plan | 17.06.13 |
| DA2002 | E | Level B2 Plan | 17.06.13 |
| DA2003 | E | Level B3 Plan | 17.06.13 |
| DA2100 | G | Level 00 Plan | 31.07.14 |
| DA2101 | G | Level 01 Plan | 31.07.14 |
| DA2102 | G | Level 02 Plan | 31.07.14 |
| DA2103 | H | Level 03 Plan | 31.07.14 |
| DA2105 | H | Level 05 Plan | 31.07.14 |
| DA2106 | E | Level 06 Plan | 31.07.14 |
| DA2107 | E | Level 07 Plan | 31.07.14 |
| DA2108 | E | Level 08 Plan | 31.07.14 |
| DA2109 | E | Level 09 Plan | 31.07.14 |
| DA2110 | H | Level 10 Plan | 31.07.14 |
| DA2111 | F | Level 11 Plan | 31.07.14 |
| DA2112 | E | Level 12 Plan | 31.07.14 |
| DA2113 | F | Level 13 Plan | 31.07.14 |
| DA2115 | E | Level 15 Plan | 31.07.14 |
| DA2116 | E | Level 16 Plan | 31.07.14 |

| ARCHITECTURAL DRAWINGS | | | |
|--------------------------|----------|--|------------------------------|
| DRAWING NO. | REVISION | NAME OF PLAN | DATE |
| DA2901 | B | Resident's Outdoor Function Area Plan and Section | 20.01.15 |
| DA3100 | G H | South Elevation Epping Rd | 31.07.14 19.01.15 |
| DA3101 | G H | North Elevation | 31.07.14 19.01.15 |
| DA3102 | G H | East Elevation – (Herring Rd) West Elevation | 31.07.14 19.01.15 |
| DA3110 | G H | Section 1 | 31.07.14 19.01.15 |
| DA3111 | G H | Section 2 | 31.07.14 19.01.15 |
| DA3112 | G H | Section 3 and Section 4 | 31.07.14 19.01.15 |
| DA3113 | F G | Section 5 | 31.07.14 19.01.15 |
| DA4100 | C | Detailed Elevation Sheet 1 | 31.07.14 |
| DA3610 | F | Sunlight Access Diagrams Winter Solstice June 21 | 17.06.13 |
| DA3611 | F | Sunlight Access Diagrams Equinox March/September 21 | 17.06.13 |
| DA3612 Solstice 17.06.13 | F | Sunlight Access Diagrams Summer Solstice December 21 | 17.06.13 |
| DA3630 | G | Views Sheet 01 | 04.08.14 |
| DA3631 | G | Views Sheet 02 | 04.08.14 |
| DA3632 | G | Views Sheet 03 | 04.08.14 |
| DA3633 | G | Views Sheet 04 | 04.08.14 |
| DA3634 | G | Views Sheet 05 | 04.08.14 |
| ARCHITECTURAL DRAWINGS | | | |
| 3 | | Landscape Concept Plan | 31 July 2014 |

| ARCHITECTURAL DRAWINGS | | | |
|------------------------|----------|--|--------------|
| DRAWING NO. | REVISION | NAME OF PLAN | DATE |
| 4 | | Illustrative Sections Section A & B | 31 July 2014 |
| 5 | | Illustrative Sections Section C & D | 31 July 2014 |
| 6 | | Illustrative Landscape Sections Section E & F | 31 July 2014 |
| 7 | | Illustrative Landscape Sections Section G & H | 31 July 2014 |
| 8 | | Illustrative Sections Section I, J & K | 31 July 2014 |
| 9 | | Public Space Diagram | 31 July 2014 |

3.2.2 D19 WORK-AS-EXECUTED PLAN

Proposed condition:

D19 Work-as-Executed Plan

*To ensure storm water drainage works are completed in accordance with approved plans, a Work-as Executed plan for the site drainage system certified by a registered surveyor is to be submitted to the Principal certifying Authority and Council prior to issue of **the relevant** Occupation Certificate(s). The W.A.E plan is to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from a qualified and experienced civil engineer should be submitted to support all variations from approved plan.*

3.2.3 D24 DEDICATION OF AFFORDABLE HOUSING TO COUNCIL

Proposed condition:

D24 Dedication of Affordable Housing to Council

*Prior to the release of an interim or final occupation certificate for ~~any~~ **the relevant** building (or as otherwise agreed by Council) the Proponent shall dedicate at least two affordable housing units to Council. The housing units shall comply with SEPP 65 solar access, natural cross ventilation and privacy requirements and be approved by Council prior to dedication. Identification of the units shall be agreed with Council prior to the release of any Construction Certificate for the **first relevant** stage of the development. Should the proponent and Council not be able to agree on the suitability of apartments to be dedicated, the Director General will intervene.*

3.2.4 F5 ROAD DAMAGE

Proposed condition:

F5 Road Damage

*The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is be met in full by the Proponent/developer prior to the issue of ~~any~~ **the final** Occupation Certificate **for the entire development**.*

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

3.2.5 F6 REGISTRATION OF EASEMENTS

Proposed condition:

F6 Registration of Easements

*Prior to the issue of ~~any~~ **each** Occupation Certificate, the Proponent shall provide to the Certifying Authority evidence that all easements **relevant to that occupation certificate** required by this approval, approvals, and other consents have been lodged for registration or registered at the NSW Land and Property Information.*

3.2.6 F8 TRAVEL ACCESS GUIDE/GREEN TRAVEL PLAN

Proposed condition:

FB Travel Access Guide/Green Travel Plan

*Prior to the occupation of any building on site, the Proponent shall provide details of any Travel Access Guide (TAG)/Green Travel Plan, **including a Car Share Scheme**, to the satisfaction of the Certifying Authority.*

3.2.7 F9 CAR SHARE SCHEME

Delete condition:

~~**F9 Car Share Scheme**~~

~~*Prior to the occupation of any building the Certifying Authority must be satisfied that the Car Share Scheme has been implemented and is operational.*~~

3.2.8 F11 POST CONSTRUCTION DILAPIDATION REPORT

Delete condition:

~~**F11 Post-construction Dilapidation Report**~~

- ~~(1) The Proponent shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.~~
- ~~(2) The report is to be submitted to the Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:~~
 - ~~(a) Compare the post-construction dilapidation report with the pre-construction dilapidation report required by Condition B~~

- ~~(b) Have written configuration from the relevant authority that there is no adverse structural damage to their infrastructure and roads.~~
- ~~(3) A copy of this report is to be forwarded to the Director and Council.~~

3.3 MODIFICATIONS TO THE STATEMENT OF COMMITMENTS

Schedule 3 Statement of Commitments is proposed to be modified as follows:

| SUBJECT | COMMITMENT | COMMENT |
|---------------------------------|--|--|
| Approved Project | Development on the site will be implemented in accordance with the Concept Plan entitled S75W Concept Plan Modification 2 and Project Application Modification 1' dated July 2013. | |
| | Stage 1 will be implemented in accordance with the Project Application Plans entitled S75W Concept Plan Modification 2 and Project Application Modification 1' dated July 2013. | |
| Approved floor space | The total floor area of the development shall generally be in accordance with the approved Concept Plan Modification 2 (MP10_0122 MOD2) and shall not exceed 51,139m ² . The development shall contain a minimum 1,210m ² non-residential land uses. | |
| Apartment mix/ accessibility | Approval is granted for a Stage 1 apartment mix of: <ul style="list-style-type: none"> - Maximum 169 163 (49.7% 48%) one bedroom apartments; - Minimum 174 180 (50.3% 52%) two bedroom apartments; | As per approval for MP 10_0112 (MOD 4). |
| | In order to ensure flexibility and options to live close to work, 27 SOHO apartments will be provided across the development site. | |
| | 10% of apartments will be provided as Class C adaptable units across the development site. | |
| Parking | For residential apartments having a combined GFA of up to 46,420m ² , on-site car parking must be provided at rates compliant with the Roads and Maritime Services (formerly Roads and Traffic Authority) Guide to Traffic Generating | As per approval for MP 10_0112 (MOD 3) |

| SUBJECT | COMMITMENT | COMMENT |
|-------------------------------------|---|---|
| | <p>Development's requirements, which are as follows:</p> <p>0.6 spaces per 1 bedroom apartment</p> <p>0.9 spaces per 2 bedroom apartment</p> <p>1.4 spaces per 3 bedroom apartment</p> <p>1 space per 5 visitors</p> <p>1 space per 100m² commercial GFA</p> <p>For any residential apartments that cause the combined GFA of residential apartments on site to exceed 46,420m², there must be no provision for parking spaces other than visitor parking at the rate of 1 per 5 apartments.</p> | |
| Road Access and Traffic | <p>In accordance with the recommendations of the Traffic Report prepared by Traffix and dated January 2011, a Travel Plan will be prepared which addresses:</p> <ul style="list-style-type: none"> Local bus stop locations; Bus and rail timetables; Location of taxi ranks in the locality; Location of local services within walking distance such as convenience stores, supermarkets and other retail related areas; Location of car share vehicles How a car share scheme can be accommodated on site; and Local cycle routes including the City of Ryde cycle map. <p>The proponent commits to consulting with a car share operator such as Go Get to determine the feasibility of a car share scheme on-site.</p> | <p>The applicant has approached Car Share providers. However, providers are unwilling to implement and operate until buildings are occupied and a demand is established.</p> |
| Flora and Fauna and Tree Management | <p>In accordance with the Flora and Fauna Assessment prepared by Total Earth Care dated December 2010 and the Arborist Report prepared by Earthscape Horticultural Services dated February 2011, the following will be implemented:</p> | |

| SUBJECT | COMMITMENT | COMMENT |
|---------------------|--|---------|
| | <ul style="list-style-type: none"> ▪ Removal of trees should be offset with the revegetation of the Epping Road setback buffer zones and removal of exotic species from the site; ▪ Any landscaping or revegetation works are to incorporate locally indigenous native plant species, including those that are characteristic of STIF; ▪ The protection measures as recommended with the Arborist's Report prepared by Earthscape Horticultural Services; ▪ Temporary fencing is to be installed around the construction area and machinery or materials storage areas to eliminate the potential for accidental damage to the STIF remnants and all retained trees on the site during construction works; <p>Native trees or limbs of trees that are removed as part of the clearing for the current proposal should be mulched and used on site in rehabilitation or landscaping works, for temporary sediment and erosion control during construction, or as habitat features in any restoration works;</p> <ul style="list-style-type: none"> ▪ Implementation of the Tree Management Plan; and ▪ Planting of 20 new trees capable of attaining a height of thirteen metres at maturity. | |
| Structural Adequacy | <p>The Structural design will be in accordance with:</p> <ul style="list-style-type: none"> ▪ AS / NZS1170.0 – 2002 General Principles; ▪ As / NZS1170.1 – 2002 Permanent, Imposed and Other Actions; ▪ AS / NZS1170.2 – 2002 Wind Actions; ▪ AS3600 – 2009 Concrete Structures; ▪ AS3700 – 2001 Masonry; ▪ AS4100 – 1998 Steel Structures; ▪ AS1720.1 – 1997 Timber Structures; and | |

| SUBJECT | COMMITMENT | COMMENT |
|---|--|---------|
| | <ul style="list-style-type: none"> ▪ BCA – 2009 Building Codes of Australia. | |
| Construction, Waste and Traffic Impacts | Works will be carried out in accordance with the recommendations of the preliminary Construction Management Plan and Waste Management Plan prepared by Stamford Property Services and dated June 2013, and the preliminary Construction Traffic Management Plan prepared by Traffix and dated January 2011. | |
| | A detailed Construction Management Plan, Waste Management Plan and Construction Traffic Management Plan will be prepared and submitted when a builder is appointed and Construction Certificate documentation prepared. Further consultation regarding construction access will be undertaken with the RTA and Council prior to the completion of these Plans. | |
| Soil and Water Management | Details of the easement recommended in the Civil Engineering Design Report prepared by Meinhardt and dated January 2011 will be provided to the Department of Planning prior to the issue of a Stage 1 Construction Certificate. | |
| | <p>The stormwater and drainage network will be in accordance with the Civil Engineering Design Report prepared by Meinhardt and dated January 2011. Stormwater drainage infrastructure will be designed in accordance with:</p> <ul style="list-style-type: none"> ▪ AS3500.3; ▪ City of Ryde Council's specifications; ▪ The Concrete Pipe Association of Australia Guidelines; and ▪ The Australian Rainfall and Runoff (ARR) publication. | |
| | A bulk earthworks model will be provided with the Construction Certificate documentation for each stage, indicating the final cut and fill volumes. | |
| Environmentally Sustainable | Residential development will need to meet the BASIX energy consumption benchmark with a target of achieving | |

| SUBJECT | COMMITMENT | COMMENT |
|-----------------------------|--|---------|
| Development | a 4 star Green Star rating. A further ESD statement will be submitted with the Stage 2 DA. | |
| Infrastructure and Services | Future development on the site will include upgrades to energy, water, sewer and telecommunications infrastructure in accordance with service provider requirements. | |
| Public Benefits | Public benefits provided to the wider community will include public access (provided by a covenant on the title) to communal open space areas and a proposed meeting room on-site. | |
| Residential Amenity | <p>The proponent commits to provide:</p> <ul style="list-style-type: none"> ▪ A residential swimming pool; ▪ Residents gym; ▪ Provision of a herb/vegetable garden, the design of which will be detailed in the Stage 1 landscape plans, prior to the issue of a Construction Certificate; <p>Provision of a bicycle voucher, offering 50% off a range of bicycles approved by Stamford, for every residential purchaser; and</p> <ul style="list-style-type: none"> ▪ Provision of a bicycle voucher, offering 50% off a range of bicycles approved by Stamford, for every 100m² of non-residential GFA. ▪ A community meeting room for occupiers of the development privately managed. | |
| WSUD | <p>WSUD measures for both stages will be in accordance with the Integrated Water Management Plan Rev B prepared by AECOM and dated June 2013:</p> <ul style="list-style-type: none"> ▪ Rainwater harvesting for non-potable reuse including toilet flushing, clothes washing and irrigation; and ▪ Harvested rainwater will be treated via a gross pollutant trap to remove suspended solids prior to discharge into the rainwater tank. | |

| SUBJECT | COMMITMENT | COMMENT |
|--------------------------------|---|---|
| | In addition, the gross pollutant trap and rain gardens will be designed for the Treatable Flow Rate. | |
| | Water efficient fixtures and fittings including 4-3 WELS star rating dual flush toilets, 6-5 3 WELS star bathroom taps and 3 WELS star shower heads are being considered to meet GBCA targets. | Consistent with Condition B29 of MP 10_0113 (MOD 2) |
| Geotechnical and Contamination | <p>Works will comply with the recommendations of the Geotechnical Investigation and Waste Classification of InSitu Materials Report prepared by Douglas and Partners and dated January 2011, and the Preliminary Contamination Assessment prepared by Douglas and Partners and dated February 2011. The proponent commits to:</p> <ul style="list-style-type: none"> ▪ Carry out filling in accordance with the report; ▪ Undertake regular inspection by a geotechnical engineer following each progressive lift in excavation; ▪ All load bearing foundations inspected and spoon tested by an experienced geotechnical engineer or engineering geologist; ▪ Preparation of a dilapidation survey of adjacent buildings prior to and at the completion of bulk excavation works; <p>Once the site has been stripped of fill and excavated soils are stockpiled on site, an environmental scientist or engineer will inspect the site to confirm the classification of fill as General Solid Waste;</p> <ul style="list-style-type: none"> ▪ Fill classified as General Solid Waste will only be transported to a facility licensed to accept General Solid Waste; and ▪ The preliminary classification of natural soils as VENM will be confirmed subject to an inspection once all filling has been removed. | |
| | Final or detailed design of retaining walls will be undertaken using an interactive computer software program such as WALLAP or FLAC during the progressive | |

| SUBJECT | COMMITMENT | COMMENT |
|------------------------------|--|---------|
| | stages of wall construction, anchoring and bulk excavation. | |
| Building Regulations | Where non-compliances with the BCA, Alternative Solutions will be employed to address these matters. | |
| Erosion and Sediment Control | An Erosion and Sediment Control Plan measures outlined in the Meinhardt Civil Engineering Design Report and dated January 2011 will be incorporated into a detailed Erosion and Sediment Control Plan. | |
| Landscaping | Landscaping and public domain works on the site will be implemented in accordance with the Landscape Plans prepared by <i>Site Image entitled Macquarie Park Village 75w Stage 1 Project Plan Report dated 31 July 2014</i> . A further detailed landscape plan in accordance with the principles of the approved Concept Plan will be submitted prior to issue of a Construction Certificate for each stage. | |
| Acoustic | Glazing will be provided in accordance with the recommendations of the Acoustic Report dated January 2011 and letter dated 24 November 2011. | |
| | <p>The following noise attenuation measures will be adopted for future retail/commercial tenancies as outlined in the Noise Impact Assessment prepared by Acoustic Logic and dated 20/6/13:</p> <ul style="list-style-type: none"> ▪ Locating seating below awnings and overhangs to limit noise impact to residence above; ▪ Limit the number of seats within the courtyard; ▪ Locating external areas where noise transmission is limited; and ▪ Limit deliveries and waste removal to day time hours. | |
| | <p>A detailed construction noise and vibration plan will be developed once construction programs have been developed further. The noise and vibration plan will be developed in accordance with the following:</p> <ul style="list-style-type: none"> ▪ Australian Standard AS2436:1981 "Guide to noise control on construction, maintenance and demolition | |

| SUBJECT | COMMITMENT | COMMENT |
|----------------------------|---|---|
| | <p>sites”; and</p> <ul style="list-style-type: none"> ▪ DECCW – “Interim Construction Noise Guideline”. | |
| Wind | The recommendations of the Wind Report prepared by Vipac dated June 2013 will be implemented. | |
| | The effectiveness of wind control mechanisms will be validated prior to the issue of a the relevant Construction Certificate. | |
| Public Art | A detailed Public Art Plan will be prepared by a suitably qualified Public Art Consultant. | |
| Waste | Allowance will be made for the future collection of waste by waste contractors in accordance with all relevant regulatory requirements. | |
| Dedication of Type 3 Roads | If the council notifies the proponent that it does not require the provision of the road under Schedule 3 Condition C16, the proponent will pay Council an amount equal to the difference between construction costs for a Type 3 road and a pedestrian/cyclist/emergency vehicle access as proposed. The amount is to be determined by a qualified and practising quantity surveyor mutually agreed upon by the proponent and Council. | |
| Affordable housing | The proponent will dedicate 4 appropriately sized and located dwelling units within Stage 4 Stage 2 of the development to be administered as Affordable Housing | Affordable housing units are provided in Sydney and Melbourne buildings in Stage 2 as agreed with Council. |
| Public Access | The provision of a staircase and lift along Epping Road to allow access to the existing bus stop on Epping road. | |
| Upgrade of Bus Shelter | To facilitate the upgrade of the existing bus shelter on Epping Road. | |
| Development contributions | Appropriate contributions, commensurate with each stage, will be payable prior to the issue of a Construction Certificate for that stage in accordance with the City of | |

| SUBJECT | COMMITMENT | COMMENT |
|---------|--|---------|
| | Ryde Section 94 Development Contributions Plan 2007. | |

4 Description and Rationale of Proposed Modifications

4.1 CONDITION A2 DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND DOCUMENTS

It is proposed to modify Condition A2 to amend the approved plans in order to raise the podium level by approximately 600mm, which is a result of rationalising the construction certificate documentation. The maximum proposed heights of the buildings are below the maximum RLs approved in the Concept Plan (as modified). The proposal will not change the approved built form or GFA and FSR and will therefore not have any built form impacts in terms of privacy, views and shadows. The appearance of the buildings will not change.

4.2 D19 WORK-AS-EXECUTED PLAN

Condition D 19 is proposed to be modified to in order to meet the applicant's staging of Occupation Certificates. During the course of design development and discussions with contractors, the proponent has resolved its preferred delivery strategy that includes the sequencing of works on site. It is unlikely that stormwater will be completed by the time the first Interim OC is required. Therefore, due to the preferred sequencing of works, the condition needs to relate to the relevant OC.

4.3 D24 DEDICATION OF AFFORDABLE HOUSING TO COUNCIL

Condition D24 is proposed to be modified to reflect the relevant occupation certificate required. The affordable housing units are provided in the Sydney and Melbourne buildings, which form part of Stage 2. Therefore, the staging of occupation certificates needs to reflect the sequencing of works on the site.

4.4 F5 ROAD DAMAGE

It is proposed to delete Condition F5 *Road Damage* from the Project Approval and defer it to the Stage 2 development application, which is currently being assessed by Council. For the purposes of accurately assessing damage to roads, the compliance timeframe is suggested to be prior to the issue of the final occupation certificate, which will be in Stage 2. The construction works will continue on stage 2 upon completion of Stage 1 works.

4.5 F6 REGISTRATION OF EASEMENTS

Condition F6 is proposed to be modified to meet the applicant's staging of Occupation Certificates.

4.6 F8 TRAVEL ACCESS GUIDE/GREEN TRAVEL PLAN AND F9 CAR SHARE SCHEME

It is proposed to modify condition F8 to ensure a Car Share Scheme has been considered in the Travel Access Plan/Green Travel Plan. The applicant has approached car share operators to operate on the site. However, companies are not willing to operate until buildings are occupied and there is a demand. Therefore, details of how the car share scheme has been implemented and operational will not be available prior to the occupation of the buildings. We therefore request Condition F9 be deleted from the project approval. This is reflected in the modified Statement of Commitments in Section 3.3.

4.7 F11 POST CONSTRUCTION DILAPIDATION REPORT

It is proposed to delete Condition F11 Post-Construction Dilapidation Report from the Project Approval and defer it to the Stage 2 development application. The construction works will continue on stage 2 upon completion of Stage 1 works. Therefore, for the purposes of accurately undertaking a post-construction dilapidation report the compliance timeframe is suggested to be prior to the issue of the final occupation certificate, which will be in Stage 2.

5 Planning Assessment

5.1 CONSISTENCY WITH CURRENT APPROVALS

The modifications proposed within this application do not constitute a '*radical transformation*' to the Stage 1 Project Approval or the Concept Plan Approval because:

- The proposed use is the same as that currently approved under the Stage 1 Project Approval and Concept Plan Approval.
- The envelopes of the buildings do not change and are consistent with the Concept Plan Approval.
- There will be no change to the built form and approved floor space;
- The new RLs are below the maximum approved RLs in the Concept Approval. The raised podium will not be readily visible from within the development and the surrounds.

The proposed modifications are consistent with the provisions of Section 75W as outlined in Section 6 of this report.

5.2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The proposal is considered to be consistent with the Objects of the Act and the Concept Plan Approval and Project Approval for the site.

5.3 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The proposed modifications do not alter any residential apartments, and therefore do not alter the approved Basix and ABSA Certification.

5.4 STATE ENVIRONMENTAL PLANNING POLICY 65 AND THE RESIDENTIAL FLAT DESIGN CODE

SEPP 65 contains ten design principles aimed to ensure a high quality of residential apartment development. The proposed increase in RLs by approximately 600mm will not alter the context, scale, built form, density, sustainability, landscape, amenity, security, affordability and aesthetics of the development. The proposal remains consistent with the SEPP 65.

The proposed modifications do not impact on building layouts, apartment mixes or internal design and will not alter the proposal's consistency with the provisions of the RFDC.

6 Environmental Assessment

6.1 POTENTIAL ENVIRONMENTAL IMPACT

The proposed modifications have been assessed with regard to its environmental impact, taking into account the potential implications arising from the proposed changes to the consent.

The proposed modification to raise the podium by approximately 600mm will not have any significant environmental impacts. The proposal does not involve any changes to the use, unit mix, built form or appearance. There will be no internal or external works to the buildings, road network or landscaping. The change relates to raising the podium only, which is a result of rationalisation of the construction certificate documentation. When viewed from within the development and the surrounds, the modification will not have a visual impact and will not be readily noticeable (refer to Figure 1).

FIGURE 1 – NORTH ELEVATION



PICTURE 1 – MOD 4 APPROVED



PICTURE 2 – MOD 6 PROPOSED

The modifications to Conditions D19, D24, F5, F6, F8, F9 and F11 are administration matters only. There will be no environmental, amenity and visual impacts arising from these modifications.

Overall, it is considered that the proposed modifications will not have any significant environmental impacts.

7 Summary and Recommendation

Overall, we conclude that the Section 75W Modification application is entirely appropriate and may be approved by the Minister, on the basis that the proposed modifications do not constitute a radical transformation to the Stage 1 Project Approval and there will not be any detrimental natural and built environmental impacts.

Based on the above, it is considered that the proposed modification to Conditions A2, D19, D24, F5, F6, F8, F9 and F11 may be approved under the provisions of Section 75W of the Environmental Planning and Assessment Act 1979.

If you would like to discuss the application, please do not hesitate to contact me on (02) 8233 9900.

Yours sincerely,



Alaine Roff
Senior Planner

Appendices

Appendix A: Architectural Drawings prepared by AJ+C Architects

Appendix A

Architectural Drawings