



26 July 2016

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

Attention: Simon Truong

Dear Simon,

Re: Section 75W Modification (MOD 8) of Concept Approval (MP 10_0112) and Project Approval (MP 10_0113) - Nos. 110-114 Herring Road, Macquarie Park

On behalf of *HSH Hotels Australia Limited*, we hereby lodge a Section 75W Modification application to amend the Concept Approval (MP10_0112 as modified by MOD 6) Stage 1 Project Approval (MP10_0113 as modified by MOD 6)

The proposed modifications to the Concept Approval and Project Approval include:

- Modify Condition A2 to amend the approved plans in order to realign the entry from Herring Road to retain Telstra's required access to the existing telecommunications pit within the footpath.
- Modify Condition A2 to amend the approved plans in order to widen the internal ring road to satisfy Fire Rescue NSW requirements.
- Modify the approved landscape concept and civil package to reflect the above changes.

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 are minor changes to the access and internal ring road, to satisfy the requirements of Telstra and Fire Rescue NSW. As the proposed modifications will not result in any changes to the approved use, form envelope and density of the development there will be no environmental impact.

The realigned access driveway requires the current approved footpath crossover to be shifted 5m to the south. The proposed design retains the gradients of the previous access arrangement but will increase the width from 6m to 7.5m to assist with vehicles negotiating the change on the internal road.

The changes to the kerb line of the internal road will result in the loss of five podium parking spaces. However the proposal will still satisfy the parking requirements of the Stage 1 Project and Stage 2 DA approvals.

There are no changes to the approved Schedule 3 Statement of Commitments as a result of the modifications.



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 PROPOSED MODIFICATIONS

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

1.1 MODIFICATIONS TO THE CONCEPT PLAN APPROVAL

To reflect the above changes to the project, this Section 75W application proposes the following modification to the Instrument 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.

1.2 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 2013, including all associated documents and reports; and*
 - *the Section 75W Modification Application prepared by Urbis Pty Ltd dated August 2014, including all associated documents and reports; and*
 - *the Section 75W Modification Application prepared by Urbis Pty Ltd (dated January 2015 and amended 19 March and 13 April 2015); and*
 - *the Section 75W Modification Application prepared by Urbis Pty Ltd (dated 16 March 2015 and amended 8 May 2015); and*
 - ***the Section 75W Modification Application prepared by Urbis Pty Ltd dated 26 July 2016 2016, including all associated documents and reports; and***
- *the final 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	17.06.13
DA0100	C	Staging Diagrams	17.06.13
DA2001	K	Level B1 Plan	14.04.15
DA2002	J	Level B2 Plan	27.03.15
DA2003	H	Level B3 Plan	19.01.15
DA2100	G J	Level 00 Plan	31.07.14 8 July 2016
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
DA2901	B	Resident's Outdoor Function Area Plan and Section	20.01.15
DA3100	H	South Elevation Epping Rd	19.01.15

DA3101	H	North Elevation	19.01.15
DA3102	H	East Elevation – (Herring Rd) West Elevation	19.01.15
DA3110	H	Section 1	19.01.15
DA3111	H	Section 2	19.01.15
DA3112	H	Section 3 and Section 4	19.01.15
DA3113	G	Section 5	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
Landscape Plans			
Drawing No.	Drawing No.	Drawing No.	Drawing No.
3		Landscape Concept Plan	31 July 2014 5 July 2016
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

1.3 MODIFICATIONS TO THE 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.

1.3.1 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 (January 2015 amended 19 March and 13 April 2015) and (16 March 2015 amended 8 May 2015) and **(26 July 2016)**, 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			
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DA0000	G	Cover Sheet	17.06.13
DA0100	C	Staging Diagrams	17.06.13
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DA2100	G J	Level 00 Plan	31.07.14 8 July 2016
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
DA2901	B	Resident's Outdoor Function Area Plan and Section	20.01.15
DA3100	H	South Elevation Epping Rd	19.01.15
DA3101	H	North Elevation	19.01.15
DA3102	H	East Elevation – (Herring Rd) West Elevation	19.01.15
DA3110	H	Section 1	19.01.15
DA3111	H	Section 2	19.01.15
DA3112	H	Section 3 and Section 4	19.01.15
DA3113	G	Section 5	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
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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

1.4 JUSTIFICATION FOR THE MODIFICATIONS

The modification to the entry alignment off Herring Road is required to retain access to Telstra's existing telecommunications services pit and pillar located within the footpath outside the site boundary. The approved entry design has the Telstra assets located within the driveway. Telstra will not permit construction of the driveway around the assets as clear access for maintenance is required at all times.

The frequent vehicular movement in and out of the site would unsafely impact maintenance staff working on these assets.

The widening of the internal ring road is due to a recent requirement by Fire Rescue NSW to accommodate access by fire truck emergency vehicles. Previous consultation, with advice from FRNSW did not require emergency vehicle access to the internal ring road.

The two modifications are not related and should be considered and assessed in isolation. Any conditions of consent should reflect this.

2 STATUTORY FRAMEWORK AND PLANNING ASSESSMENT

2.1 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.

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 unit mix as approved under the Concept Plan Approval (as modified) and the Stage 1 Project Approval (as modified).
- There will be no significant reduction of landscaping or public open space on the site.

2.2 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.

2.3 STATE ENVIRONMENTAL PLANNING POLICY 65 AND THE APARTMENT DESIGN GUIDE

SEPP 65 contains nine design principles aimed to ensure a high quality of residential apartment development. The change to the site access and change to the internal ring road will not alter the context, scale, built form, density, sustainability, landscape, amenity, security, affordability and aesthetics of the development. The proposal therefore remains consistent with 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 ADG.

3 ENVIRONMENTAL ASSESSMENT

The proposed modifications will not have any significant environmental impacts. The proposal does not involve any changes to the use, unit mix, built form, density or appearance.

Traffix has assessed the modifications in relation to the traffic engineering implications of the revised access driveway design and the parking implications of the revised kerb line for the circulation road. In summary:

- A swept path analysis has been undertaken in accordance with AS2890.2 that confirms the ability of new entry design to accommodate the largest design vehicle expected on site (a 12.5m Heavy Rigid Vehicle).
- The revised internal kerb permits full site access for emergency vehicles, up to and including a 12.4m Aerial Appliance vehicle.
- The change to the kerb arrangement results in the loss of 5 podium level vehicle parking spaces, leaving 14 spaces. MOD 5 requires 605 basement parking spaces and seven podium spaces. Condition B22 of the Stage 1 Project Approval and Condition 26 of the Stage 2 DA Approval requires an additional six car spaces to be dedicated as 'car share' spaces. The basement parking provision is as approved. The proposed remaining 14 podium car spaces satisfy the minimum requirement of seven visitor spaces and six car share spaces.

Traffix concludes that the proposal is "*supportable from a traffic-engineering perspective*". A copy of Traffix's assessment is at Appendix C.

The Landscape Plan has been amended to reflect the changes in the driveway alignment and road widening. The proposal will still achieve a minimum central park open space area of 1,655m². A copy of the proposed modified Landscape Plan is at attached Appendix D.

4 SUMMARY AND RECOMMENDATION

Overall, the Section 75W Modification application is entirely appropriate and may be approved by the Minister, on the basis that the proposal does not constitute a radical transformation to the Project and Stage 1 Project Approvals 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 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



APPENDICES

Appendix A: Modified Architectural Drawings prepared by AJ+C Architects

Appendix B: Modified Civil Engineering Plans prepared by Aurecon (Part 1 and 2)

Appendix C: Design Review Statement prepared by Traffix

Appendix D: Modified Landscape Plan prepared by Site Image (Part 1 and 2)

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Ian Cady", written over a light blue horizontal line.

Ian Cady
Director