

16 September 2019

218314

Mr Jim Betts
Secretary
Department of Planning, Industry and Environment
320 Pitt Street
Sydney
NSW 2000

Attn: David McNamara (Director, Key Sites Assessments)

Dear David,

Section 75W Modification Application | Correction of Error in Urban Form Control Diagrams Part 3A Concept Plan Approval MP 10_0229 | Woollooware Bay Town Centre

1.0 Introduction

This section 75W Modification seeks to modify the Part 3A Concept Plan Approval MP10_0229 relating to the Stage 1 Precinct at 461 Captain Cook Drive, Woollooware (Woollooware Bay Town Centre). It is submitted to the Minister for Planning (or his delegate) pursuant to section 75W and Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (the Transitional Regulation) by Ethos Urban on behalf of Prime Woollooware 4 Pty Ltd.

The purpose of this modification application is to correct an error in the Urban Form Control Diagrams (building envelope plans) relating to Levels 4 and 5 of Building E. This error relates to the north-western portion of the envelope relating to the provision of car parking in accordance with the design intent that was documented in the Preferred Project Report for MP10_0229 MOD 2. This modification is accompanied by the Confirmation of Satisfaction of Conditions (**Attachment A**) and amended Urban Form Control Diagrams (**Attachment B**).

2.0 Background

2.1 Concept Plan Approval MP10_0229

The Concept Plan for the Woollooware Bay Town Centre was declared to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) by the (then) Minister for Planning on 21 February 2011. Following the public exhibition and assessment of the application, the (then) Planning Assessment Commission granted consent for the Concept Plan on 27 August 2012. The Concept Approval provided for new residential apartment buildings to the west of Sharks Stadium, improvements to Sharks Stadium and the development of a new retail centre and renewal of the Leagues Club in the east.

2.2 S75W MOD2 to Concept Plan Approval

A significant modification to the Concept Approval for the addition of residential, visitor accommodation and office uses above the approved retail centre in the eastern portion of the site was publicly exhibited in 2017 (MP10_0229 MOD 2). MOD 2 was approved by the Independent Planning Commission (IPC) on 18 April 2018 and granted approval for revised building envelopes in the Stage 1 (Eastern) Precinct to allow for the addition of residential apartments, a hotel and offices above the Retail / Leagues Club approved under MP10_0230. In approving MOD 2, the IPC imposed Condition B3 which required the submission of amended Urban Form Control Diagrams (building envelope plans) to the Secretary for approval in relation to required changes to Building D. The Secretary certified in

writing that Condition B3 had been satisfied on 17 August 2018 (**Attachment A**). **Figure 1** identifies the configuration of the Eastern Precinct as approved in MOD 2.

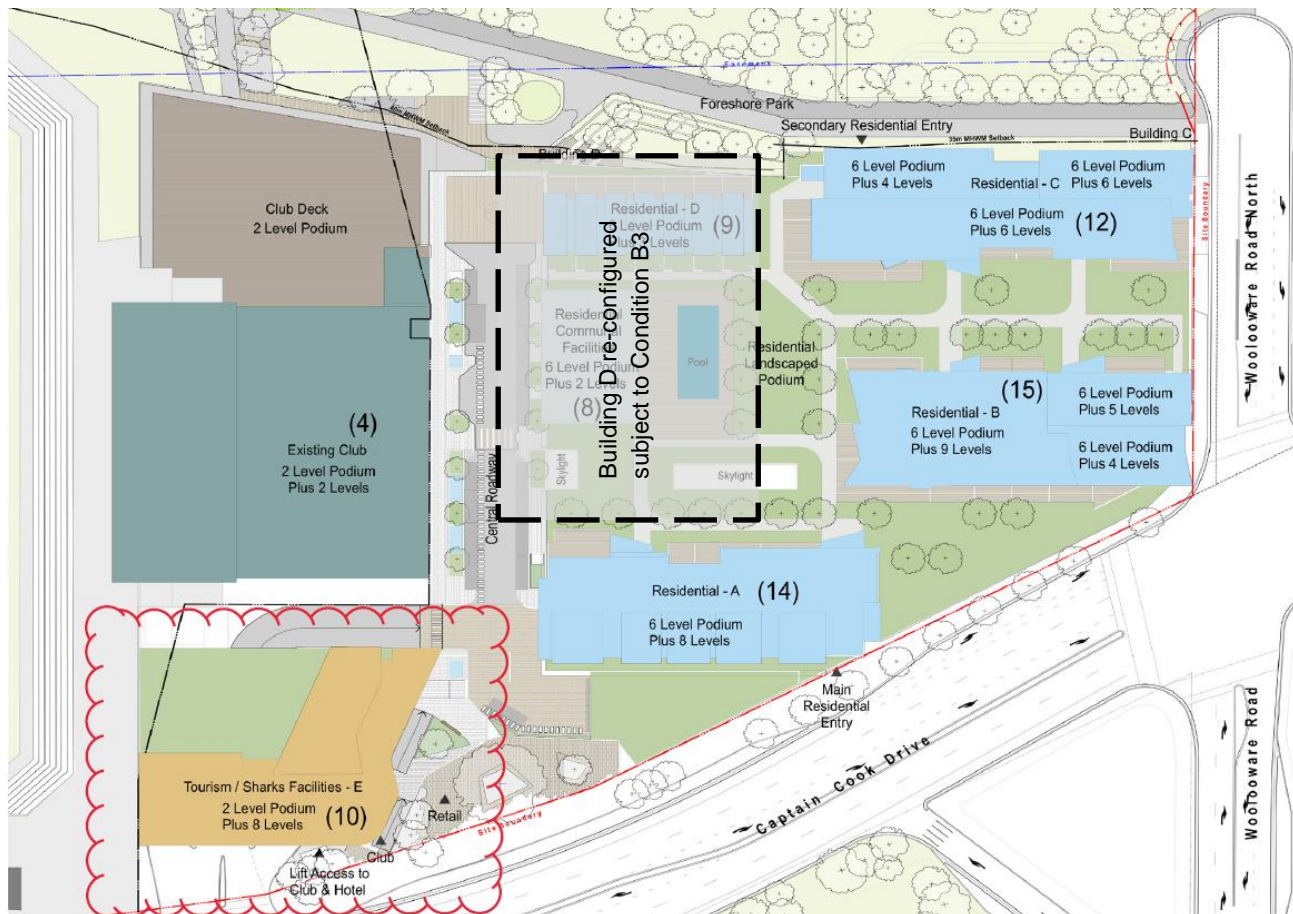


Figure 1 Overview of approved development illustrating location of Building E and terrace

2.3 Development Application DA18/1448

Development Application DA18/1448 (the Eastern Precinct DA) was submitted to Sutherland Shire Council (Council) in December 2018, which seeks detailed consent for all buildings land uses within the Stage 1 (Eastern) Precinct including those previously approved under Part 3A Project Approval MP10_0230 for the retail centre and Leagues Club. This DA is currently under assessment by Council officers and is expected to be determined at the Sydney South Planning Panel meeting on 18 December 2019.

3.0 Reason for the Modification

During the assessment of the Eastern Precinct DA, it has become evident that there is an error contained in the Urban Form Control Diagrams relating to Levels 4 and 5 of Building E. Building E is a mixed-use building located above the retail podium that contains both visitor accommodation and residential apartments, that was approved as part of MOD 2.

The originally exhibited proposal for MOD 2 did not include car parking beneath Building E, and instead proposed a terrace at Level 4 bounded by the hotel/residential building envelope forming an ‘L’ shape. However, dedicated car parking for Building E was subsequently included in the Preferred Project in response to the submission from Council (**Figure 2**). When the illustrative scheme was updated for the Preferred Project to include car parking at Level 4 and 5 of Building E (and to incorporate other changes to the broader scheme), the building envelope

diagrams were not adjusted to reflect the revised design and the shifting of the terrace to sit two levels higher (refer to **Table 1**). This error has resulted in an inconsistency between the approved building envelopes and the detailed DA scheme currently under assessment by Council.

To enable Council and the South District Planning Panel to be satisfied that the DA is generally consistent with the Concept Plan, this modification is submitted to correct the minor error. As outlined above and at **Table 1** below, the building envelope now proposed was the intended design for Building E at the time of the approval of MOD 2 and will not result in any environmental impacts that have not been considered throughout assessment of the Concept Plan modification.



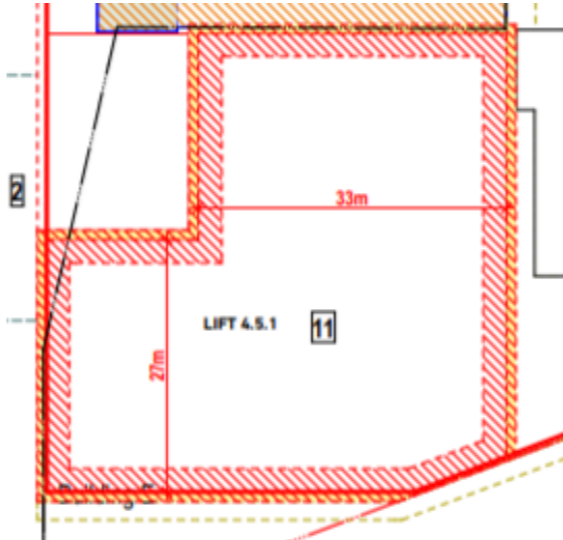
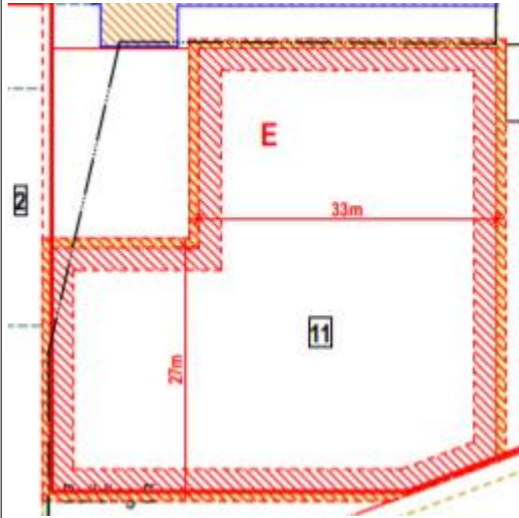


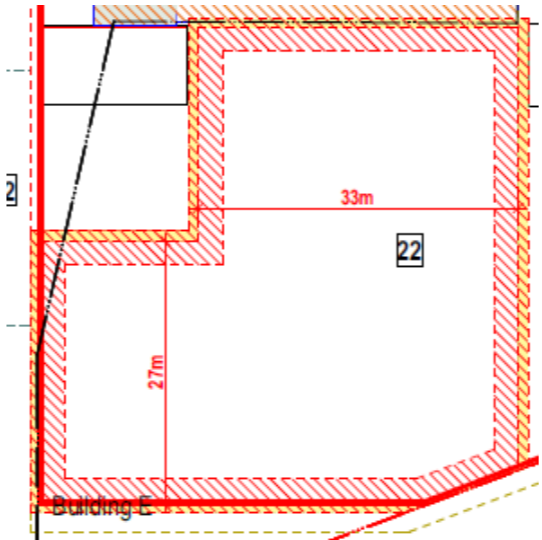
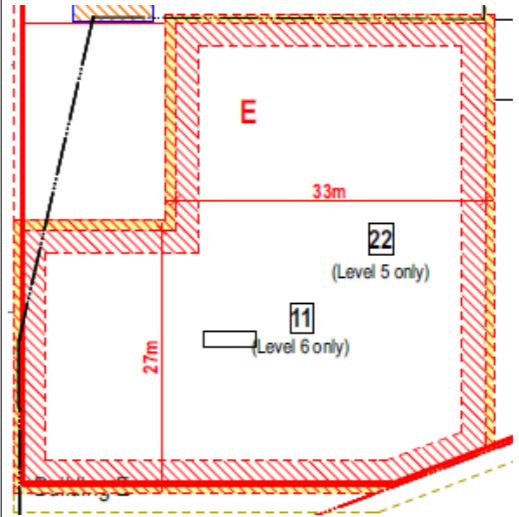
3.1.2 Amended Hotel and Car Park Design

In order to respond to matters raised by Council, it is proposed to amend the hotel (Building E) envelope to provide additional dedicated car parking, improve the viability of the hotel and facilitate the housing affordability package outlined in **Section 3.1.3** below.

Council's submission stated that *"there may also be value in the hotel having access to its own parking spaces within the hotel building footprint accessed from the upper level internal road as a means of potentially increasing parking numbers, but more importantly making the arrival sequence simpler for visitors"*. The Proponent has reviewed Council's suggestion and agrees that there is merit in this approach. Accordingly, it is proposed to include two levels of dedicated hotel parking within the lower two levels of Building E, providing a total of 91 parking spaces for use by residents, hotel staff, visitors and guests. Of these 91 spaces, 22 are for use by residents in a secure area. As a result of the proposed changes, the maximum height of Building E is proposed to be increased from eight storeys to 10 storeys. Due to tolerances provided in the detailed building envelope, this increase in height only equates to an increase of RL 6.3.

Figure 2 Extract from Response to Submissions Report outlining increase in Building E height for parking

Table 1 Comparison of plans and documents between public exhibition and approval

	Level 4 – Indicative Floor Plan	Level 5 – Indicative Floor Plan	Level 4 – Urban Form Control Diagram	Level 5 – Urban Form Control Diagram	Other documents
Exhibited Scheme					Other plans in the exhibited Modification Application show the inclusion of the roof terrace at Level 4.
Approved Scheme					Other plans and diagrams which formed part of the Response to Submissions, including the Architectural Design Statement, Gross Building Area calculations, Traffic and Parking Statement etc. clearly identify the additional levels of car parking in Building E.
Comment	Clear change in building form to accommodate full level of car parking.	Clear change in building form to accommodate full level of car parking.	Building envelope not changed in error, despite changes to indicative floor plans and project description to accommodate dedicated parking in Building E.	Building envelope not changed in error, despite changes to indicative floor plans and project description to accommodate dedicated parking in Building E.	Urban Form Control diagrams not updated to reflect additional parking levels in Building E.

4.0 Proposed Modification to Concept Approval

In order to rectify the error identified in Section 3.0, it is proposed to amend the Urban Form Control Diagrams referenced in the Concept Approval to correct the error in the Level 4 and Level 5 plans for Building E as referenced in the table of plans contained in Condition A2 of the Concept Plan Approval. This change effects Drawing No.S6-A-125-005, S6-A-126-006 and S6-A-127-007.

The building envelope plans for Level 4 and 5 of Building E will be modified to reflect the layout of the car park shown on the illustrative architectural scheme and other documentation submitted with the Response to Submissions for Concept Plan MOD 2.

The revised plans are shown at **Figure 3** and provided at **Attachment B**.

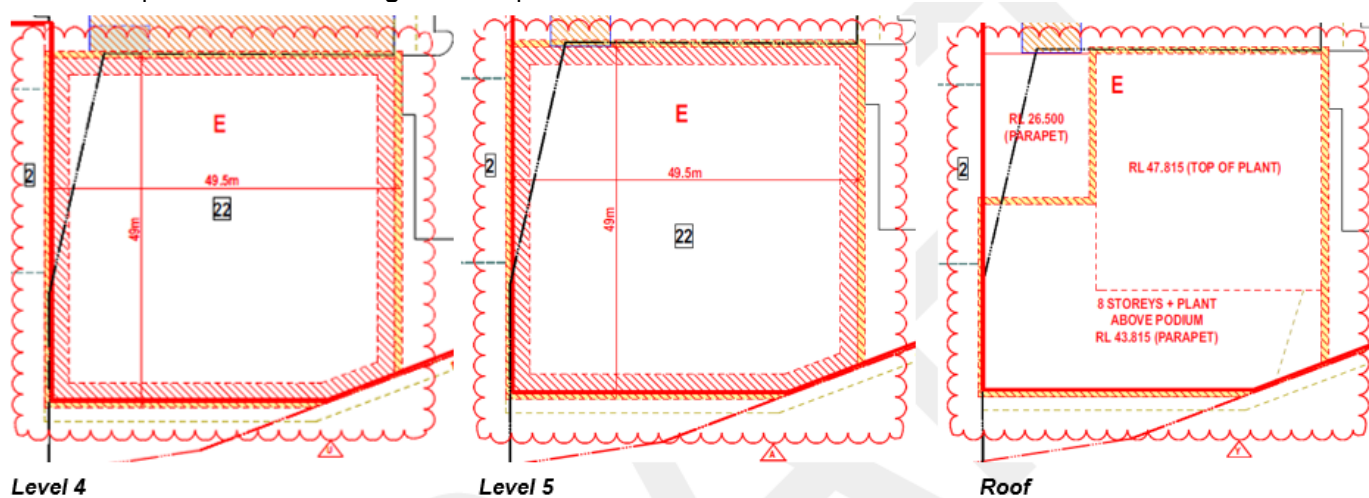


Figure 3 Amended Urban Form Control Diagrams to correct error

Source: Turner

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

SCHEDULE 2

A2. DEVELOPMENT IN ACCORDANCE WITH PLANS AND DOCUMENTATION

...

c) the following drawings:

Drawing No.	Revision	Name of Plan	Date
S6-A-125-005	T <i>U</i>	Urban Form Control Diagrams – Level 4	12 July 2017 <i>10 September 2019</i>
<i>S6-A-125-013</i>	<i>A</i>	<i>Urban Form Control Diagrams – Level 5</i>	<i>10 September 2019</i>
S6-A-126-005	T <i>V</i>	Urban Form Control Diagrams – Level 5 & 6	12 July 2017 <i>10 September 2019</i>
S6A-130-009	W <i>Y</i>	Urban Form Control Diagrams – Roof Level	12 July 2017 <i>10 September 2019</i>

<i>Drawing No.</i>	<i>Revision</i>	<i>Name of Plan</i>	<i>Date</i>
S6A-132-011	RT	Urban Form Control Diagrams – East & West Elevation	16 February 2018 10 September 2019

5.0 Assessment of Environmental Impacts

5.1 Consistency with Relevant Legislation and Environmental Planning Instruments

5.1.1 Environmental Planning and Assessment Act 1979

The Concept Plan Approval (MP 10_0229) for Woolooware Bay Town Centre was issued in accordance with Part 3A of the EP&A Act, which has since been repealed. Notwithstanding the repeal of Part 3A, the Transitional Regulation includes provisions that allow Concept Plans approved under Part 3A to continue to be modified as though Part 3A had not been repealed. Specifically, under Section 3C(1) of Schedule 2 of the Transitional Regulation a Concept Plan may be modified in accordance with the provisions of section 75W of the Act as though this section had not been repealed. The minor modification proposed does not result in any additional environmental impacts that require assessment and may be approved under section 75W.

5.1.2 Consistency with Concept Plan MP10_0229

The proposed modification facilitates the intended design outcome for Building E, which is to provide car parking at Levels 5 and 6 in accordance with the illustrative architectural scheme. This adjustment remains consistent with the approved Concept Plan (as modified) for the following reasons:

- The provision of car parking in Building E through the provision of dedicated levels on Levels 4 and 5 is consistent with the MOD 2 documentation and was only omitted from the Urban Form Control Diagrams by error.
- There is no additional GFA.
- There is no additional GBA, as the GBA for the car parking on Levels 4 and 5 of Building E were included in the calculation and assessment for MOD 2, but omitted from the Urban Form Control Diagrams by error.
- There will be no change to the amount of car parking to be provided in accordance with the maximum number set out in Condition A2.
- The location of the proposed change is not visible from the public domain and will not result in any adverse impacts. Notwithstanding this, the visual and built form effects of the car parking levels on Level 4 and Level 5 were fully assessed and considered as part of the Response to Submissions and assessments by the Department and IPC, and their omission from the Urban Form Control Diagrams was an error of oversight only.

6.0 Conclusion

The proposed modification seeks to correct an error in the Building Envelope Diagrams for Building E on Levels 4 and 5. This error arose as a result of a design change made in the Response to Submissions to address Council's submission on MOD 2 that Building E should have its own allocated parking, however, this change was not appropriately reflected in the final approved building envelope drawings. As the DA for this development is currently under assessment by Council and due to be determined at the 18 December panel meeting, we would appreciate the Department's urgent attention in correcting this issue.

Should you have any queries, please do not hesitate to contact Michael Oliver or Frances Mehrstens via the contact details below.

Yours sincerely,



Frances Mehrrens
Senior Urbanist
9956 6962
fmehrtens@ethosurban.com



Michael Oliver
Associate Director
9956 6962
moliver@ethosurban.com