

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the Concept Approval referred to in Schedule 1, subject to the modified Terms of Approval and Future Assessment Requirements outlined in Schedule 2.



Marcus Ray
Group Deputy Secretary
Planning and Assessment

Sydney 22 December 2020

SCHEDULE 1

Concept Approval:	MP 09_0160 granted by the Planning Assessment Commission on 22 June 2010
For the following:	Construction of a residential development, public open space, parking and road works at 23 Bennelong Parkway, Wentworth Point (Lot 3 DP 776611 and Lot 22 DP 104874).
Applicant:	Piety Development Pty Ltd
Consent authority:	Minster for Planning and Public Spaces
Modification:	MP 09_0160 MOD 4: the modification includes: <ul style="list-style-type: none">• amended building envelopes• increase the height of building envelopes C and F from 9 to 15 storeys• reduce Gross Floor Area to 47,487 sqm• increase the indicative apartment numbers by 8 (to a total of 649 apartments)• 100 sqm communal space across Buildings C and F.

SCHEDULE 2

PART A - TERMS OF APPROVAL

The Concept Approval is modified as follows:

- a) Schedule 2 Part A – Condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and underlined**~~ words/ numbers as follows:

A1 Development Description

Concept Approval is granted to the development described below:

- Use of the site for residential purposes and public open space;
- Indicative building envelopes for ~~3 separate buildings A-C~~ **ranging from 4 to 15 storeys** over a single podium and basement level, with heights ranging from 4 to 9 storeys
- Basement level car parking;
- Road works to extend Amalfi Drive; and
- Associated landscaping and site facilities.

- b) Schedule 2 Part A – Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and underlined**~~ words/ numbers as follows:

A2 Development in Accordance with the Plans and Documentation

The approval shall be generally in accordance with MP09_0160 and with the Environmental Assessment, except where amended by the Preferred Project Report and the following drawings prepared by Turner and Associates:

Concept Plan Drawings prepared by Turner and Associates			
Drawing No.	Revision	Name of Plan	Date
DA01	J	Site Context Plan_Existing	29/6/2012
DA02	L	Site Context Plan_Future	14/2/2013
DA06	G	Area Diagrams_Stage 1 DA	10/8/2010
DA07	R	Site Statistics_Stage 1 DA	6/5/2013
DA11	K	Illustrative Street Network Diagrams	14/2/2013
DA21	Q	Illustrative Basement Plan	14/2/2013
DA22	T	Lower Ground/Illustrative Bennelong Road Level Plan	5/6/2013
DA23	F	Illustrative Amalfi Drive Level Plan	5/8/2010
DA24	F	Illustrative Level 1 Plan	5/8/2010
DA25	F	Illustrative Level 2+3 Plan	5/8/2010
DA26	F	Illustrative Level 4 Plan	5/8/2010
DA27	P	Illustrative Levels 5+6 Plan	14/2/2013
DA28	P	Level 7 Plan	14/2/2013
DA29	Q	Roof Plan	14/2/2013
DA31	H	Illustrative West Elevation	14/2/2013
DA32	J	Illustrative Section_AA	14/2/2013
DA33	J	Illustrative Section_BB	14/2/2013
DA34	E	Illustrative Elevation to Amalfi Drive	14/2/2013

DA41	J	Urban Form Control Drawings	14/2/2013
DA01	C	Concept Landscape Plan	13/8/2010

Except as modified by the Environmental Assessment prepared by Sutherland & Associates Planning, dated September 2018, and amended by the:

- Response to Submissions, prepared by FPD Pty Ltd, dated 15 April 2020
- Further Response to Submissions, prepared by FPD Pty Ltd, dated 9 September 2020
- Response to issues raised during notification, prepared by FPD Pty Ltd, dated 5 November 2020, and
- The following drawings prepared by Turner:

<u>Drawing No.</u>	<u>Revision</u>	<u>Name of Plan</u>	<u>Date</u>
<u>S75W-100-003</u>	<u>C</u>	<u>Open Space Area Diagrams</u>	<u>02/09/20</u>
<u>S75W-100-004</u>	<u>C</u>	<u>Statistics</u>	<u>02/09/20</u>
<u>S75W-110-101</u>	<u>C</u>	<u>Illustrative Plan Ground Level</u>	<u>02/09/20</u>
<u>S75W-110-102</u>	<u>C</u>	<u>Illustrative Plan Level 01</u>	<u>02/09/20</u>
<u>S75W-110-103</u>	<u>C</u>	<u>Illustrative Plan Level 02-08</u>	<u>02/09/20</u>
<u>S75W-110-110</u>	<u>C</u>	<u>Illustrative Plan Level 09</u>	<u>02/09/20</u>
<u>S75W-110-111</u>	<u>C</u>	<u>Illustrative Plan Level 10</u>	<u>02/09/20</u>
<u>S75W-110-112</u>	<u>C</u>	<u>Illustrative Plan Level 11</u>	<u>02/09/20</u>
<u>S75W-110-113</u>	<u>C</u>	<u>Illustrative Plan Level 12</u>	<u>02/09/20</u>
<u>S75W-110-114</u>	<u>C</u>	<u>Illustrative Plan Level 13-14</u>	<u>02/09/20</u>
<u>S75W-110-115</u>	<u>C</u>	<u>Illustrative Plan Level 15</u>	<u>02/09/20</u>
<u>S75W-110-201</u>	<u>C</u>	<u>Illustrative Plan Basement 01</u>	<u>02/09/20</u>
<u>S75W-200-001</u>	<u>B</u>	<u>GA Elevations West Elevation Bldg C & F</u>	<u>02/09/20</u>
<u>S75W-300-001</u>	<u>C</u>	<u>GA Sections Section AA & BB</u>	<u>02/09/20</u>
<u>S75W-400-001</u>	<u>C</u>	<u>Urban Form Control Drawing</u>	<u>02/09/20</u>

except for as modified by the following pursuant to Section 75O(4) of the Act.

- c) Schedule 2 Part A – Condition A3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold struck out~~** words/ numbers as follows:

A3 Building Envelope Modifications

- a) The envelope of the southeast corner of Building B (fronting Amalfi Drive and the eastern 3 storey part of the Capri Building) shall be reduced to a maximum of 5 storeys (RL 23.50 m) by deleting the proposed 8 units (2x3 bedroom, 2x1 bedroom and 4x2 bedroom) on 2 levels (Levels 5 and 6) as identified (hatched in red) in Drawing number DA27 Revision F.

Amended plans demonstrating compliance with this modification shall be submitted to, and approved by, the Director General prior to the submission of any future Development Application”.

- b) The building envelopes for Buildings C and F are to be amended as follows:**

- (i) increase the internal courtyard building separation distance to 22.5 m up to 9 storeys, and provide a separation of 24 m for all storeys above
- (ii) increase the side separation distance to a minimum of 12 m between proposed Building C and existing Building B and proposed Building F and existing Building G
- (iii) reduce the depth of building envelopes C and F to a maximum of 22 – 23 m (to generally align with existing Buildings D and E), with no change to the existing 8 m setback to Bennelong Parkway.

Amended plans demonstrating compliance with this modification shall be submitted to, and approved by, the Secretary prior to the submission of any future Development Application/s for Buildings C and F.

- d) Schedule 2 Part A – Condition A4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold-struck-out~~** words/ numbers as follows:

A4 Maximum Gross Floor Area

The redevelopment of the site for a residential development shall not exceed a maximum Floor Space as defined under the Homebush Bay West Development Control Plan 2004 of approximately **50,045 47,487** m².

Note: the maximum floor space is an upper limit and may not be achieved within the envelopes as modified in Condition A3 (b).

- e) Schedule 2 Part A – Condition A8 is added by the insertion of the **bold and underlined** words/ numbers as follows:

A8. Design Excellence Strategy

The Design Excellence Strategy prepared by Turners, dated 14.04.2020 is to be amended to include the requirement that future applications are to be reviewed by the Parramatta Design Excellence Advisory Panel.

- f) Schedule 2 Part B – Future Assessment Requirement 1 (Building design) is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold-struck-out~~** words/ numbers as follows:

1. Building Design

Future Development Applications shall demonstrate compliance, or fully justify any non-compliance with the Daylight Access, Building Separation and Natural Ventilation provisions of the *State Environmental Planning 65 – Design Quality of Residential Flat **Apartment** Development* (SEPP 65) and the accompanying *Residential Flat Design Code 2002 **Apartment Design Guide***.

- g) Schedule 2 Part B – Future Assessment Requirement 2 (Privacy) is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold struck out**~~ words/ numbers as follows:

2. Privacy

Future Development Applications shall demonstrate that the buildings and apartments are arranged and designed to minimise acoustic and visual privacy impacts between:

- Building A and the existing Portofino Building;
- Building B and the existing Capri Building;
- Buildings B and C; and
- Building C and the existing Sorrento Building

in accordance with the provisions of State Environmental Planning 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Residential Flat Design Code 2002.

Future development applications for Buildings C and F shall demonstrate the buildings and apartments are arranged and designed to minimise acoustic and visual privacy impacts between:

- **Proposed Building C and existing Building B**
- **Proposed Building F and existing Building G**

in accordance with State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide.

- h) Schedule 2 Part B – Future Assessment Requirement 3 (SEPP 65) is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold struck out**~~ words/ numbers as follows:

3. SEPP 65

Future Development Applications shall be consistent with the provisions of the *State Environmental Planning 65 – Design Quality of Residential Flat-~~Apartment~~ Development* (SEPP 65) and the accompanying *Residential Flat Design Code 2002 **Apartment Design Guide***.

- i) Schedule 2 Part B – insert new Future Assessment Requirement 5 with the following **bold and underlined** words:

5. Design Excellence

Future development applications for Buildings C and F shall demonstrate design excellence in accordance with the Design Excellence Strategy prepared by Turners, dated 14.04.2020 (as amended by Condition A8)/

- j) Schedule 2 Part B – insert new Future Assessment Requirement 6 with the following **bold and underlined** words:

6. Solar access

Future development applications for Buildings C and F shall demonstrate that existing apartments in the Concept Plan achieve the following:

- (i) a minimum of 70% of existing apartments receive 2 hours or more solar access to living rooms and private open space, between 9am and 3pm, midwinter
- (ii) a maximum of 15% of existing apartments receive no direct sunlight, between 9am and 3pm, midwinter

- a) Schedule 2 Part B – insert new Future Assessment Requirement 7 with the following **bold and underlined** words:

7. Indoor communal space

Future development applications for Buildings C and F are to provide a minimum of 100 m² of useable communal indoor space.

- b) Schedule 2 Part B – insert new Future Assessment Requirement 8 with the following **bold and underlined** words:

8. Buildings C and F

Future development applications for Buildings C and F are to include:

- a) **a Construction Management Plan**
- b) **a Soil and Water Management Plan, which includes the following:**
 - (i) **prepared in accordance with the provisions of the “Blue Book” Part 1 (Landcom (2004) Managing Urban Stormwater: Soils and Construction, 4th edition)**
 - (ii) **a sediment basin for every catchment discharging from the site**
 - (iii) **be endorsed by a qualified stormwater engineer**
 - (iv) **requirement that records of any discharges to Nuwi wetland (via Council’s stormwater drainage network) be provided to Council and SOPA.**
- c) **a Noise Impact Assessment to consider mitigation measures for high noise level events at Sydney Olympic Park**
- d) **assessment of potential impacts on the surface and groundwater of the area, including:**
 - (i) **a Stormwater Management Plan**
 - (ii) **opportunities for integrated water cycle management**
 - (iii) **measures to manage any basement seepage**
 - (iv) **wastewater system loads.**
- e) **a Waste Management Plan for the demolition, construction and operation phases**
- f) **travel access details including a Travel Access Guide, Green Travel Plan and details of bicycle facilities and way finding strategies**
- g) **the use of low reflectivity glazing to minimise risk of bird strike**
- h) **a landscape plan, which includes the following:**
 - (i) **use of a diversity of local native trees, shrubs and groundcover species from the relevant native vegetation community which once occurred in the locality**

- (ii) advanced and established local native tree species for tree planting at the site and street
- (iii) enough space for trees to grow to maturity
- (iv) a plant maintenance program.

Schedule 3

STATEMENT OF COMMITMENTS

(SOURCE: FURTHER RTS)

	ISSUE	ACTION
1	Subsequent applications	Applications (hereafter called "subsequent applications") consistent with the Concept Approval will be lodged with the relevant consent authority and will incorporate the following features.
2	ESD	Subsequent applications will incorporate the ESD principles and features as described in <u>Section 6.12 of the EA Section 4.3 of the ESD Report, prepared by Credwell, dated 7/9/2020.</u>
3	Safety by design	Subsequent applications will contain details of how the design of the development embodies 'safety by design' principles.
4	Basement design	The geometric design features of the car parking bay dimensions, aisle widths, ramp grades, etc, will comply with the dimensions specified by the Australian Standards publication Parking Facilities Part 1: Off-Street Car Parking (AS2890.1).
5	Wind	Subsequent applications will incorporate the relevant and applicable measures recommended in the Pedestrian Wind Environment Statement by Windtech dated 29 June 2009. <u>For Buildings C and F, a wind impact assessment including wind modelling will be submitted with subsequent applications, having consideration for the recommendations of Pedestrian Wind Environment Statement prepared by Windtech dated 25 March 2020 and addendum letter dated 14 August 2020.</u>
6	Acid sulphate soils	An assessment of ASS underlying the site will be undertaken during the Stage 2 ESA to allow for the preparation of a site specific ASS Management Plan to be submitted with any subsequent DA's and to ensure that ASS (if encountered) will be appropriately managed and/or disposed.
7	Remediation of contamination	A stage 2 environmental site assessment will be undertaken and submitted with subsequent applications in accordance with the requirements of SEPP 55 and remediation will be undertaken in accordance with any Remediation Action Plan prior to commencement of the development.
8	Geotechnical	A geotechnical investigation of the site will accompany subsequent applications
9	Radio Towers	The requirements will be incorporated into the Construction Management Plan for the proposal at relevant subsequent applications. <ul style="list-style-type: none"> • Construction cranes and elevated platforms to be bonded to earth. • Metal scaffolding to be bonded to earth. • All structural steel, mesh and pipes to be bonded to earth. • Metal ropes and cables to bonded to earth (where practicable) • Communication and Power cables to be run in shielded building risers. • Earthing rods and gloves to used when lowering steel and touching by hand is required to manoeuvre or release loads

		<ul style="list-style-type: none"> • A Safe working procedure to be implemented dealing with possible re-radiation during construction. • Measurements performed following construction to confirm safe levels.
10	Road design	The design of the road, inclusive of provision for services and load bearing requirements will be prepared in consultation with Auburn Council and details will be provided as part of subsequent applications.
11	Bay Park subdivision	Bay Park will be contained in a separate lot, exclusive of any car parking structure below the Park, as part of any future subdivision application associated with this Concept Plan
12	<u>Landscape Plan</u>	<u>Subsequent applications are to include a Landscape Plan with details of the landscaping of all communal open space, specifying use of appropriate native species and ensuring use of established trees with adequate space to grow.</u>

END OF MODIFICATION TO MP09_0160