

27 February 2013

**DETERMINATION OF A MAJOR PROJECT MODIFICATION APPLICATION FOR  
A MIXED USE DEVELOPMENT AT 6-16 ATCHISON STREET, ST LEONARDS  
APPLICATION REFERENCE: MP09\_0187 MOD 1**

**1. Major Project Application**

On 1 May 2012, the Planning Assessment Commission as delegate of the Minister for Planning granted project approval (MP09\_0187) for construction of a new mixed use development at 6-16 Atchison Street, St Leonards. The approved development includes basement parking, ground floor commercial, a hotel with serviced apartments and residential apartments.

The Proponent is seeking modification of the project approval to facilitate staged construction and occupation and to modify the affordable housing provision, requiring amendment to the conditions of consent.

A list of the modifications sought and corresponding condition amendments as considered by the Commission are set out in section 2.1 of the Director General's Environmental Assessment Report dated February 2013.

**2. Delegation to the Commission**

The project modification (MP09\_0187 MOD 1) was referred to the Planning Assessment Commission ('the Commission') for determination under Ministerial delegation issued 14 September 2011, as North Sydney Council objected.

For this determination, the Commission consists of Donna Campbell (chair) and Gabrielle Kibble.

**3. Department's Assessment Report**

On 12 February 2013, the Commission received the Director-General's Environmental Assessment Report and documents associated with the application.

The Department recommends approval of the application as outlined in the report, and as reflected in recommended condition amendments. It also recommends Condition B5 be strengthened to require the Director-General to approve the affordable housing mix if the Proponent and Council cannot reach agreement.

#### 4. Commission's Consultation

The Commission reviewed the submissions and documents received by the Department, and also met with the Council and the Proponent as outlined below.

##### 4.1 North Sydney Council

North Sydney Council representatives met with the Commission on 21 February 2013 to discuss the Department's recommendation. The meeting focussed on Council's key concerns, namely,

- the affordable housing provisions are uncertain, and the Council requires certainty on the number, mix, and location of affordable housing units to ensure its policy is satisfied and to ensure these units would achieve reasonable amenity. The Council expressed a preference for a minimum of 2 x 2-bed affordable housing units with the remainder being 1-bed affordable housing units. The Council also raised concern about their suggested allocation on the lower two levels noting these currently contain only studios and 1-bed units and lower levels typically would have poorer amenity than higher levels.
- the need for the tower element's plans to be approved prior to commencement of the basement excavation/construction due to the interrelationship (e.g. lifts, parking spaces) between the basement and upper levels.
- the Council's policy is for s94 contributions to be paid prior to determination of the Construction Certificate and this would be its preference. If the requirement to pay the contributions were to be postponed, the Council requests the Proponent be required to arrange a bank guarantee to secure the s94 contributions prior to determination of the Construction Certificate.

In general, the Council is concerned that modifications for the staging of the development will delay certainty and result in significant regulatory and community confusion.

##### 4.2 The Proponent

The Proponent's representatives met with the Commission on 21 February 2013. In the meeting the Proponent outlined the following:

- the tower design plans are yet to be finalised, but the design changes being considered would not affect the basement.
- a two-year construction period is anticipated, with a preference to tenant the commercial and hotel uses while the residential apartments are constructed.
- it would not be adverse to a s94 bank guarantee at the Construction Certificate stage.
- its general acceptance of the Council's preferred affordable housing mix, but a preference that the number and location of the units are not committed by condition.

## 5. Commission's Consideration

### 5.1 Affordable Housing

The Commission does not object to the affordable housing dedication being secured as part of the residential component of the project, noting these units would be within the residential tower.

However, it supports the Department's recommendation for the Director-General to approve the affordable housing mix if the Council and the Proponent cannot reach a written agreement within a reasonable time. The Commission has added a minor amendment to make it clear that the Director-General's approval will relate to number, location and reasonable mix of unit types.

### 5.2 Section 94 Contributions

The Commission does not object to the Department's recommendation that payment of the section 94 contributions be tied to occupation of the residential component of the proposal, due to the nexus between the two.

However, the Council's request that a bank guarantee secure the section 94 contributions is reasonable, and the Proponent raised no objection.

## 6. Commission's Determination

The Commission has carefully reviewed the application, the Director-General's Environmental Assessment Report, and submissions. The Commission also discussed the Department's recommendation with North Sydney Council and the Proponent.

The Commission considers that the Proponent's requested modifications are reasonable, as they affect the staging of the proposal and timing of payments rather than the development outcome. However, the Commission has amended the recommended conditions to provide greater surety for all parties.



Donna Campbell (Chair)  
**PAC Member**



Gabrielle Kibble, AO  
**PAC Member**