

Concept Plan Approval

Department of Planning and Infrastructure



Concept Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation executed on 28 May 2011, we determine:

- (a) to approve the concept plan referred to in Schedule 1, subject to the terms of approval and the modifications in Schedule 3; and
- (b) pursuant to section 75P(1)(a) of the *Environmental Planning and Assessment Act 1979*, the further environmental assessment requirements for approval to carry out the development as set out in Schedule 3; and
- (c) pursuant to Section 75P(1)(b) of the *Environmental Planning and Assessment Act 1979*, that approval to carry out all future stages of the project be subject to Part 4 of the *Environmental Planning and Assessment Act 1979*.


Member of the Commission


Member of the Commission


Member of the Commission

19 July

2011

SCHEDULE 1

PART A: PARTICULARS

Application No.:	MP09_0210
Proponent:	Winten (No. 42) Pty Ltd
Approval Authority:	Minister for Planning & Infrastructure
Land:	88 Christie Street and 75, 77 and 79 Lithgow Street, St Leonards Lot 71, DP 542079; Lot 72, DP 542079; Lot 10, Section 18, DP 3175; Lot 50, Section 18, DP 3175; Lot 4, DP 560889.
Project:	Redevelopment of the site for commercial and retail use, with a building envelope with a maximum height of RL149.05 metres (AHD) and a maximum Gross Floor Area of 32,599m ²

PART B: NOTES RELATING TO THE DETERMINATION OF MP09_0210

Responsibility for other consents / agreements

The Proponent is responsible for ensuring that all additional consents and agreements are obtained from other authorities as relevant, including (but not limited to) State and Federal airports/ aviation authorities.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the Act and the Regulation.

Legal notices

Any advice or notice to the approval authority shall be served on the Director General.

PART C — DEFINITIONS

In this approval:

Act means the *Environmental Planning and Assessment Act 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

Department means the Department of Planning & Infrastructure or its successors.

Director General means the Director General of the Department or his nominee.

Environmental Assessment means the Environmental Assessment prepared by JBA Planning and dated 16 July 2010.

Minister means the Minister for Planning & Infrastructure.

MP No. 09_0210 means the Major Project described in the Proponent's Environmental Assessment.

Preferred Project Report (PPR) means the Preferred Project Report and Response to Submissions dated 30 November 2010 prepared by JBA Planning.

Proponent means Winten (No. 42) Pty Ltd or any party lawfully acting upon this approval.

Regulation means the Environmental Planning and Assessment Regulation 2000 (as amended).

End of Schedule 1

SCHEDULE 2

TERMS OF APPROVAL AND MODIFICATIONS TO CONCEPT PLAN

PART A: TERMS OF APPROVAL

Development Description

1. Concept approval is granted to the development described below:
 - (a) A 18 storey (plus plant room) building envelope to a maximum height of RL149.05 metres (AHD);
 - (b) A four-level basement envelope; and
 - (c) Commercial use of the building with ancillary retail and café uses and a through site link from Lithgow Street to Christie Street at ground floor.

Development in Accordance with Plans and Documentation

2. The approval shall be generally in accordance with application MP09_0210 and with the Environmental Assessment (including appendices), except where amended by the Preferred Project Report, and the following drawings prepared by Bates Smart:

Drawing No.	Rev.	Name of Plan	Date
PA02-001	A	Basement Level B01 Plan	November 2010
PA02-002	A	Basement Typical Plan	November 2010
PA02-GL	A	Lower Ground Floor Plan	November 2010
PA02-00	A	Ground Floor Plan	November 2010
PA02-01	A	Podium Level 1-Level 2 Plan	November 2010
PA02-03	A	Tower Typical - Low Rise Plan	November 2010
PA02-11	A	Tower Typical - High Rise Plan	November 2010
PA02-15	A	Tower Level 15 Plan	November 2010
PA02-16	A	Tower Level 16 Plan	November 2010
PA02-17	A	Plant Level 17 Plan	November 2010
PA05-001	A	West Elevation	November 2010
PA05-002	A	South Elevation	November 2010
PA05-003	A	East Elevation	November 2010
PA05-004	A	North Elevation	November 2010
PA06-01	A	Section AA	November 2010

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

Lapsing of Approval

3. Approval of the Concept Plan shall lapse 5 years after the determination date shown above in this Instrument of Approval, unless the development has been physically commenced.

PART B: MODIFICATIONS TO CONCEPT PLAN

On-site Car Parking provision

4. The basement car park shall include a maximum of 206 car parking spaces.

End of Schedule 2

SCHEDULE 3

FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Pursuant to Section 75P(1)(a) of the Act the following future environmental assessment requirements apply.

Building Design

1. Future Applications shall demonstrate that façade design on all elevations incorporates high quality architectural expression and a high standard of materials and finishes.
2. The architectural roof feature shall be designed to minimise the height above the roof level of the uppermost storey and allow maximum transparency, while screening visible roof elements.
3. Future Application shall demonstrate a high level of expression and emphasis of entry portals to the through-site link at Lithgow and Christie Streets.

Lithgow Street Public Open Space

4. Future Applications shall give consideration to measures to minimise conflict between pedestrians and vehicles at the entry/exit to the basement car park.

Shareway design

5. Future Applications shall include detailed Shareway design plans for the Lithgow Street road reserve, including provision for initial construction for one-way northbound vehicular traffic, and future potential conversion to allow two-way vehicular traffic, should the proposed closure of Christie Lane and new lane to the south of the site occur. Future Applications shall clearly set out mechanisms to allow future conversion from one-way to two-way traffic.

Public Access to the Through Site Link

6. Future Applications shall clearly set out the mechanism for creating rights of public access to the through site link, with the relevant instrument to be executed prior to commencement of the use of the development.
7. Future Applications shall address crime prevention through environmental design and incorporate appropriate measures to provide activity, surveillance and security within the through-site link to allow for 24 hour/ 7 day public access.

Upgrade of Pedestrian Subway under the Pacific Highway

8. Future Applications shall consider a Voluntary Planning Agreement (VPA) with RailCorp to upgrade the southern portion of the existing pedestrian subway under the Pacific Highway, including new floor, ceiling and wall treatments, lighting and hand rails, to a minimum standard comparable to the northern portion of the subway.

Transport & Travel

9. Future Applications shall provide details of a Workplace Travel Plan prior to the occupation of the development. This should include an investigation of car sharing schemes and methods for promoting the use of public transport for future occupants of the development.

ESD

10. Future Applications shall demonstrate the implementation of the applicant's commitment to 5-star (Green Star and NABERS) energy efficiency ratings or greater.

End of Schedule 3

SCHEDULE 4

STATEMENT OF COMMITMENTS MP09_0210

**CONCEPT PLAN FOR A COMMERCIAL DEVELOPMENT AT 88 CHRISTIE STREET, ST
LEONARDS (source: PPR)**

4.0 Final Statement of Commitments

In accordance with Part 3A of the *Environmental Planning and Assessment Act 1979*, the following are the commitments made by Winten to manage and minimise potential impacts arising from the proposal. These commitments replace the draft commitments included with the EAR.

4.1 Public Domain

A publicly accessible through-site link will be provided between Lithgow Street and Christie Street. The hours of access will be determined at the Project Application stage.

4.2 Architectural Roof Feature

All building plant will be fully integrated into the design of the Architectural Roof Feature.

4.3 Transport and Accessibility

Winten makes the following commitments regarding transport and accessibility:

- Winten will request that workplace travel plans and transport access guides be prepared by future tenants prior to occupation.
- All access, servicing and internal layout will be provided in accordance with AS 2890.1:2004 and AS 2890.2 – 2002.
- An assessment of the construction traffic generated by the development will be undertaken at the Project / Development Application stage.
- A construction traffic management plan will be prepared prior to the issuing a construction certificate.
- Adequate pedestrian circulation space will be provided in accordance with Lane Cove DCP 2010's objectives and controls for access.
- Additional visitor bicycle parking will be provided near the external entrances to the building - this will be further considered at the relevant next application stage.

4.4 Environmental and Residential Amenity

4.4.1 Acoustic Privacy

An Acoustic Report will be prepared to assess the acoustic impacts of the proposal and of the adjacent existing and potential future rail corridors at the Project Application stage.

4.4.2 Wind Impact

Winten commits to implementing the following wind mitigation measures at the Project Application stage:

- Developing a design solution for the western frontage of the development to capture down-washed westerly winds;
- Retaining the proposed evergreen trees along the Christie and Lithgow Street frontages.
- Providing impermeable balustrades 1.2m in height and landscaping around the Level 15 terrace.

4.5 Environmentally Sustainable Development

The proposed building will achieve a 5 Star Green Star Office Design (v3) rating and a 5 Star NABERS Office Energy Rating.

Winten also commits to exploring the following environmental initiatives:

- natural ventilation to the podium;
- orientation specific sun shading to minimise heat gain;
- low temperature VAV or chilled beams;
- rainwater recycling;
- solar water heating; and
- low embodied energy in materials.

4.6 Contamination

A Phase 2 Environmental Site Assessment will be undertaken at the Project Application stage.

4.7 Geotechnical and Groundwater

A comprehensive geotechnical site investigation will be undertaken at the Project Application stage. The comprehensive geotechnical site investigation will:

- Develop appropriate design and construction methodologies to mitigate noise and vibration impacts during excavation of the basement car park.
- Identify existing services and utilities and relocate them if required prior to demolishing and excavation works.
- Investigate the need to develop a retaining or shoring system for the existing building during demolition and for the excavation of the basement levels to ensure structural integrity of the adjacent buildings and basements.
- Develop temporary and/or permanent shoring systems to retain the soil and residual as well as the weak sandstone overlying the good quality sandstone so that the basement excavation can be carried out in a safe manner.
- Develop appropriate design solutions and construction methodologies to mitigate ground movement that may occur due to stress relief resulting from the basement excavation.
- Identify any significant geological features intersecting the project or in the close vicinity of the site that may have an impact on the development.

4.8 Rail Infrastructure

Detailed planning and design of the building will be undertaken at the Development or Project Application stage with liaison with relevant officers of Rail Corp to ensure adequate protection measures or mitigation can be provided for existing and potential future rail corridors in the immediate vicinity of the site.

4.9 Crime Prevention Through Environmental Design

A detailed CPTED assessment will be undertaken at the Project Application stage.

4.10 Construction Management

A construction management program will be submitted to North Sydney and Lane Cove Councils for approval by their respective traffic committees prior to the issue of a Construction Certificate.

The Construction Management Plan will include measures to encourage construction workers to travel to the site by public transport whenever possible.

4.11 Infrastructure and Utilities

As part of the detailed design during the Project Application stage, an investigation into the existing capacity and required infrastructure works, including: water, wastewater, electricity and telecommunications, will be undertaken for the proposed building.

An external substation is currently located on the boundary with Christie Street and the site. It is the intention of Winten to enter into an appropriate arrangement with Energy Australia to organise for the substation to be relocated (and upgraded if necessary) within the basement of the St Leonards Commerce Centre to allow for the entrance of the building to extend across the Christie Street frontage.

4.12 Contributions

As part of the detailed design during the Project Application stage, consideration and negotiation will be undertaken with respect to a suitable material public benefit and/or monetary contribution based on Council's applicable s94 plan.

End of Schedule 4

19 July 2011

**Concept Plan
Commercial & Retail uses
18 storey building envelope
88 Christie Street St Leonards**

1.0 The Proposal

The proposal seeks **concept plan approval** for:

- An 18 storey building envelope (plus plant) to a maximum height of RL 149.05m AHD with a maximum GFA of 32,599m²;
- 6 levels of basement parking for 294 cars, plus service and delivery vehicles;
- Retail/business premises including a café and commercial lobbies at the lower and upper ground levels. Commercial floor space on the upper ground level and levels 1-16; and
- A 1,806m² area of publicly accessible through site connection over lower and upper ground levels, colonnade to an upgraded streetscape area on Lithgow Street (subject to future application)

It is noted by the Commission that the subject application is a detailed Concept Plan.

2.0 Delegation to the Commission

On 28 May 2011 the Minister for Planning and Infrastructure, the Hon Brad Hazzard MP, delegated his power to determine the application to the Planning Assessment Commission.

The Commission members nominated to determine the application were Ms Gabrielle Kibble, Emeritus Professor Kevin Sproats (Chair) and Mr Lindsay Kelly. Mr Kelly and Ms Kibble visited the site, Mr Sproats did not visit the site but is familiar with the area.

3.0 The Assessment Report

The Director General's report identified the following key issues:

- Height
- Built form;
- View impacts and outlook; and
- Car parking and traffic.

4.0 Submissions to the Department of Planning

A total of 37 submissions from the public and government agencies were received by the Department during the public exhibition period. The main issues raised in submissions related to:

- Loss of views;
- Height;
- Traffic Impacts;

- Reduction in property values;
- Non-compliance with LEP/DCP controls;
- Bulk and scale;
- Loss of residential amenity;
- Moral obligations of the developer to preserve the views for residents of the Forum buildings; and
- High vacancy rates of existing buildings

The Department considered that the issues raised in submissions can be addressed through appropriate conditions of consent and is satisfied that potential impacts have been adequately addressed by the proponent via the Environmental Assessment, Preferred Project Report, Statement of Commitments and the Department's recommended conditions of approval.

5.0 Meeting with the Department of Planning and Infrastructure

The Commission met with senior Departmental staff on 8 July 2011 for a briefing. The discussion focused on the following issues:

- Building design including height;
- Council controls for the site;
- View loss; and
- Relationship with adjoining sites.

6.0 Meeting with Council

On 12 July 2011, the Commission met with Council staff. The discussion focused on the following issues:

- Building design;
- Height;
- Traffic/car parking;
- View loss
- Potential for amalgamation with adjoining lots.

7.0 Meeting with the Proponent

On 12 July 2011, the Commission met with the Proponent and its consultants. The discussion focussed on:

- Building design;
- Height;
- Traffic and car parking; and
- Attempts at amalgamation with adjoining lots and plans to do so in the future.

8.0 Commission's Comment

The Commission has examined the documents and plans provided by the Department including the Director General's assessment report, public and agencies' submissions to the Department and the Commission and the preferred project report and has focussed on the following 6 key issues:

8.1 Bulk and Scale

The proposal seeks approval for an FSR of 12.6:1 which is under the LEP maximum for the site of 14:1. However, the proposal does not comply with the DCP controls for street frontage heights of 18m and set backs of 18m to Lithgow Street and 6m to Christie Street and Lane.

The Proponent has explained that these non-compliances are primarily due to land ownership constraints which mean that the site is not of the same dimensions as that which Council's controls have been provided for. The Proponent has also explained that in its current form, if the subject proposal was to comply with Council controls it would result in a tower footprint of approximately 850m² with 'L' shaped dimensions and would not be attractive for commercial tenants.

The Proponent addressed the issues of bulk and scale by increasing the setbacks of the proposal to the east and west boundaries from 5.3m to 7m on the lower levels and from 0 to 4m on the tower above. The north façade was also provided with further articulation at the corners to reduce the width of the building by 12m.

The Commission considers that the proponent has adequately addressed the issue of bulk and scale. The Commission also considers that the proposed building envelope is acceptable as it has been adequately demonstrated that the additional view and overshadowing impact of the proposed building envelope would be minor compared to that of a DCP compliant envelope.

8.2 View Impacts

The Proponent's view analysis indicates that the proposal will impact primarily on southerly views from 20 apartments located between levels 15 - 24 within the Forum tower and 7 apartments between levels 17 - 23 of the Forum west of the building. The proposal will also impact upon the views from all levels of the commercial podium.

The Commission considers that the view impact of the proposal is reasonable as the proposal includes only minor non-compliances with the LEP height limit and any building envelope complying with Council's controls would provide only a relatively minor reduction in view loss when compared to that proposed.

It is also acknowledged that the proposal seeks to maximise the development opportunities in the LEP whilst meeting strategic objectives in the Metropolitan Plan and Sub-regional Strategy and any reduction in floor plate and height would fail to achieve the maximum development potential of the opportunities provided in the LEP.

8.3 Traffic and Car Parking

The proposal includes the provision of 294 car spaces which complies with Council's DCP, however Council and Transport NSW advised that the proposal should reduce its car parking provision given its location in close proximity to public transport.

The Proponent indicated that the majority of additional traffic movements associated with the proposal will effect the intersections of the Pacific Highway/Oxley Street and the Pacific Highway and Christie Street. The Proponent's Traffic Study indicated that the highest levels of additional traffic (81 peak hour movements) are expected on Oxley and Lithgow Streets.

The Proponent's study estimated that the additional traffic could be accommodated within the existing road network without reducing the current level of service at key intersections. However the RTA raised concerns that the traffic generation rates forecast by the Proponent were based on rates generated by developments in North Sydney rather than St Leonards.

Using the higher rate of 0.8 vehicle movements per car pace as suggested by the RTA, it is estimated that the proposal would generate approximately 195 additional movements in the morning and even peak periods. Given the proximity of the proposal to public transport and to ensure that the additional traffic generated by the proposal could be accommodated on the local road network the Department recommended that the proposed number of parking spaces be reduced from 294 to 206 spaces.

The Commission supports this recommendation and considers 206 parking spaces to be sufficient for this proposal.

8.4 Height

The western portion of the proposed building exceeds the 65m height limit in the Lane Cove LEP by a maximum of 4.25m due to the fall from east to west.

It is considered that the exceedance in height is acceptable as the building will generally comply at the Christie Street frontage and the non-compliance is only 4.25m at the Lithgow Street frontage due to the sloping nature of the site. When compared to the height limits prescribed in the Lane Cove LEP the additional 4.25m will result in minor additional view, shadow and privacy impacts.

8.5 Site Amalgamation

The proposal comprises 5 sites within the centre of the 'Lithgow-Christie Street Precinct' which is defined in Council's DCP. This precinct comprises 17 properties, 5 of which are owned by Winten and 12 additional properties that are under individual ownership. The Council's preferred development scenario rests on the ability of a developer to amalgamate all 17 properties within the defined precinct. From the outset the Commission acknowledged the potential of such an amalgamated site for an excellent development and design outcome contributing to this important area.

This issue was also addressed by the Department in the provision of their Director General's Requirements (DGRs) which required the proponent to address amalgamation with the three properties to its south and if this could not be achieved they were required to demonstrate that the adjacent land could maximise the development opportunities available under the LEP.

The Proponent explained that they had attempted to amalgamate with the other properties within this precinct and was successful in purchasing only 2 of the 8 properties between the Pacific Highway and Christie Lane due to reasons including;

- recent refurbishments, long-term leases/profitable retail premises fronting the highway,
- some buildings being the location of head offices; and
- offers deemed inadequate by existing owners.

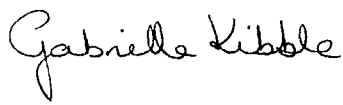
During its meeting with the Commission, the Proponent explained that they would continue to try to purchase the adjoining sites fronting the Pacific Highway, identified in Council's DCP, with a view to developing an amalgamated site fronting the highway.

The Commission recognises that approval of this proposal will impact on the potential for the extensive amalgamation and development envisaged in Council's defined 'Lithgow-Christie Street Precinct' DCP. The Commission considers it preferable that at a minimum it preferable that the subject site was amalgamated with the properties to its north fronting the Pacific Highway. Nevertheless, the Commission has considered the currently amalgamated site before it.

9.0 Commission's Determination

The Commission considers that while a better design outcome may have been achieved if the proposal included the properties adjoining the Pacific Highway to its north, it has considered the proposal as submitted and assessed in the Director General's Assessment Report.

The Commission is satisfied that the Department has appropriately considered all relevant aspects of the proposal in their assessment and has determined that the Concept Plan should be approved, subject to the recommended conditions by the Department.



Gabrielle Kibble
PAC Member



Lindsay Kelly
PAC member



Kevin Sproats
PAC Member

