

17 December 2009

Mr Andrew Smith  
Department of Planning  
23-33 Bridge Street  
SYDNEY NSW 2001

Dear Mr Smith,

**Statement of Environmental Effects**  
**Section 75W application to modify consent Condition A2 of Major Project MP09\_0033**  
**3-5 & 5A Pymble Ave, Pymble**

Pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979*, consent is sought from the Department of Planning to amend consent conditions A2 of Determination Notice MP09\_0033 to allow for combined strata subdivision of the subject building as part of the strata subdivision for the approved buildings A to D (DA No 506-12-2003).

Separate development consent was issued for the construction of building E (MP09\_0033) and buildings A to D (DA No.506-12-2003). However, because all buildings on the site are physically linked by the basement levels and will also share the common property areas/facilities, the attached proposed strata plans will need to be referenced in both development consents (DA No.506-12-2003 and MP09\_0033). This will be achieved by amending both development consents under the EP&A Act, 1979.

For all intensive purposes, the subject site is being constructed as the one development despite the existence of separate development consents for buildings A to D and building E.

## **INTRODUCTION**

The subject site is located at the south-western side of the intersection of Avon Road and Pymble Avenue, Pymble. The site is part of a broader redevelopment site that is the subject of a separate development (DA No 506-12-2003). The site contains the approved "future Building E envelope" that was identified on the approval of DA No 506-12-2003.

The site occupies 3 allotments being Lot 1 DP 537543; Lot 7, DP 5448; and Lot 12, DP 546480. It has a steep crossfall towards the northwest and previously existing dwelling houses have recently been demolished on the site.

The subject site together with adjoining allotments has been approved for a multi-unit housing development containing a total of 168 apartments and basement parking.

## **BACKGROUND**

On 24 July 2009: The Planning Assessment Commission granted development consent (MP09\_0033) subject to conditions, to the following development on the subject site:

- (1) The excavation of the site and construction of one basement level to accommodate car parking for 26 vehicles;
- (2) The demolition of 3 Pymble Avenue;
- (3) Construction of one residential building containing a total of 25 residential apartments;
- (4) Associated landscaping works;
- (5) The removal of trees removal within and next to basement walls;
- (6) Construction of a new access road; and
- (7) Subsequent Strata Title Subdivision

## PROPOSED AMENDMENTS & JUSTIFICATION

This S.75W application proposes to amend condition A2 of development consent MP09\_0033 to make reference to the strata plans that also form part of the larger development site for buildings A to D (approved under DA No. 506-12-2003). Detailed below is the proposed consent condition alteration together with justification for the amendment (proposed amendments shown **bold**).

Consent condition & proposed amendment				Justification
<p><b>A1 Development in Accordance with Documents</b>  <i>The development will be undertaken in accordance with the Environmental Assessment and Draft Statement of Commitments dated 9 March 2009 prepared by Meriton Apartments Pty Ltd and all Appendices, except where varied by the following drawings;</i>            (Current drawings with the addition of the following:)</p>				<p>The strata plans and the Strata Development Contract need to be referenced in the development consent to allow for strata subdivision to occur with the entire redevelopment of the site.</p> <p>Building E is physically linked by basement levels and strata subdivision will be created under the same strata plan with the same body corporate as buildings A to D. Despite buildings A to D and building E being granted development consent under 2 separate approvals, the site is being constructed as the one entity and strata subdivision can only logically occur as construction progresses.</p>
<p><b>Strata drawings (as relevant to building E) prepared by Wayne Diver-tuck of JBW Surveyors Pty Ltd, including the preliminary Strata Plan Administration Sheets 1 of 4 through 4 of 4 dated 30<sup>th</sup> March 2009, and the following:</b></p>				
<b>Drawing No.</b>	<b>Rev</b>	<b>Plan name</b>	<b>Date</b>	
<b>Sheet 1 of 39 to Sheet 39 of 39</b>	-	-	<b>23.07.09/ 29.07.09</b>	
<b>Strata Development contract - Sheets 1 of 11 to 11 of 11</b>	-	-		

## REASONS FOR MODIFICATION

Inclusion of the strata plans within development consent MP09\_0033 for building E will allow for strata subdivision with the remainder of the development site (buildings A to D). This will allow for the strata subdivision and occupation of each building as they become fit for occupation. It is likely that Building E will be completed and occupied last on site, however, it will still be created under the same strata plan as buildings A to D with the same body corporate.

Stage 1 of the strata is to comprise buildings A and B of DA 506-12-2003 with associated car spaces, basement storage spaces and common property. Buildings A and B of DA 506-12-2003 contain 93 strata lots, 92 of which are individual apartments and 1 is the building managers lot.

As noted in the Strata Development Contract, the *development lot* (stage 2 of the strata) will contain:

- Up to 3 buildings (Buildings C, D & E) of up to 8 levels containing a total of 79 residential units with associated car parking, OR,
- Any combination of the above in any order with the creation of additional development lots as necessary to allow for occupation of buildings as they are completed.

The Strata Development Contract advises purchasers of apartments within Stage 1 of the strata (Buildings A and B) that buildings C, D & E will also become part of the same strata plan and body corporate once they are completed.

Property developers have successfully utilised this method of strata subdivision staging over the past decade. The strata plans accompanying this application are produced by an independent registered surveyor and they are of a form that is acceptable to the Department of Lands.

### **APPLICABILITY OF SECTION 96(1A)**

The application of Section 96(1A) is considered to be warranted in this case for the following reasons:

- The nature of the approved development, being erection of a residential development, is unchanged, and
- The appearance of the building, functionality and relationship to adjoining properties will remain unchanged.

For the above reasons, the development as modified is considered to be substantially the same development as originally granted development consent.

### **CONSIDERATION**

The proposed amendment has been assessed having regard to the relevant matters for consideration under Section 79(C) of the Environmental Planning and Assessment Act 1979. The matters are assessed under the following sections.

#### **Environmental Planning Instruments**

The proposed amendment to consent condition A2 does not affect the compliance of the development with the relevant planning instruments. The amendment seeks to include the relevant strata plans to facilitate the orderly and economic development of the site.

#### **Impact of the Development**

##### **Suitability of the site**

It is considered that the proposed modification does not change the original assessment as to the site's suitability for this development.

##### **Public Interest**

The site is to be developed in an orderly and economic manner; this application seeks to achieve this.

## **CONCLUSION**

The proposal is considered to satisfy the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

Inclusion of the strata plan in the list of approved documents will allow for the entire development site (including buildings A to D approved under DA 506-12-2003) to be strata subdivided under the one strata plan with the single body corporate.

Yours sincerely

**MERITON APARTMENTS PTY LIMITED**

BENJAMIN BLACK  
**SENIOR TOWN PLANNER**