

Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation dated 14 September 2011, I approve the modification of the Project Application referred to in schedule 1, subject to the conditions in schedule 2.



Richard Pearson
Deputy Director-General
Development Assessment & Systems Performance

Sydney

23 May

2012

SCHEDULE 1

Project Approval:

MP10_0177 granted by the Planning Assessment Commission on 18 January 2011.

For the following:

Stage 1 for a residential and child care development including:

- demolition of the existing buildings and structures on site and tree removal;
- excavation, earthworks and flood mitigation works;
- construction of 7 residential buildings with associated pools and gymnasium;
- basement parking;
- childcare centre;
- external road works, internal public access roads, pedestrian and cycle way; and
- ecological rehabilitation and landscaping works.

At:

14-18 Boondah Road, Warriewood (Lot 20 in DP 1080979).

Modification:

MP10_0177 MOD 8 modification includes:

- Amendment to conditions to allow staged occupation of the development

SCHEDULE 2

CONDITIONS

The above approval is modified as follows:

- a) Condition C2 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

C2 Landscaping of the Site

- a. Detailed landscape construction plans to be prepared by a registered landscape architect generally in accordance with schematic landscape plans as prepared by Site Image P/L (Landscape Masterplan SM10041 LA 101.B). Detailed plans are to incorporate the matters detailed in this condition and prepared in conjunction with the Vegetation Management Plan as outlines in the Total Earth Care report, including:
- i. **Public Domain**
The entrances into the development, off Boondah Road and Macpherson Street are to:
 - Be embellished with street tree planting to the central median (400 litre in size) incorporating structural soil to accommodate 12m³ root volume per tree. 4-6m tree spacing to landscape edges along entryway with 400 litre tree species and grasses/groundcovers at 4-6m².
 - Incorporate entry identification of the estate name and feature paving stencilling to roadway.
 - At least 2 metered watering points.
 - ii. **Street Trees/Garden Areas to Road Verges (Boondah/Macpherson Street and Internal Access Roadways)**
 - 400 litre street trees (as indicated on plan).
 - No turf to road verge areas, garden areas planted in accordance with Warriewood Valley Landscape Masterplan in relation to species @ 4-6 plants per m².
 - iii. **Internal Access ways (between Buildings A, B, C and F, G):**
 - Central access path to be 2.4m in width reinforced concrete (exposed aggregate/coloured concrete or unit paving on concrete). Trees to pathway to be at 6m centres along the pathway and installed at 200 litre sizes.
 - Gardens to all external planters in public domain to incorporate planting two per m² and include 200 litre trees as indicated on concept plan. All gardens to have minimum 500mm depth of soil medium.
 - Waterproof membranes to all on slab areas to be independently certified by waterproofing/membrane specialist as being fit for purpose and being effectively installed.
 - All playground/fitness equipment to be in accordance with AS4685, AS4486 and AS4422. All equipment as installed is to be independently certified as complying with the nominated standards prior to use by the public.
 - All plant material is to be certified as complying with NATSPEC specifications prior to installation.
 - iv. **Building Setbacks to Macpherson Street/Boondah Road Frontages:**
 - Setback areas to be extensively landscaped to screen the building form. Tree planting to be as per the landscape plans hereby approved and incorporate 200L/400L tree sizes.

- Three copies of a detailed Landscape Plan, drawn to scale, by a qualified landscape architect/ consultant, must be submitted to and approved prior to any relevant Construction Certificate for any works being issued.
- b. The Riparian Corridor, including the Wetland Riparian edge, is to be planted in accordance with condition B26 and in accordance with the adopted *Warriewood Valley Urban Release Area Landscape Masterplan and Design Guidelines (Public Domain) 2006* prior to issue of the final Occupation Certificate for Stage 1.
- c. All landscaping in the approved plan for a part of the site within Stage 1 is to be completed prior to a final Occupation Certificate for the aboveground works being issued for that part of the site.

Prior to release of **the Final** Occupation Certificate, all landscape works need to be certified as complying with approved landscape plans by a registered landscape architect.

- d. A Landscape Management Plan is to be prepared and implemented to outline the technique and frequency of maintenance tasks during the establishment of the landscaping and on a permanent basis. The Management Plan, is to be implemented for 24 months immediately following completion of the landscaping works on site, and is to incorporate a procedure for the replacement of failed plantings, and a reconsideration of other endemic species type where plantings do not respond to the conditions as expected. Evidence of engagement of maintenance contractor for 24 months for all landscape works as constructed by the applicant to be dedicated to Council, 24 month period to be completion of all landscape works as proposed. Evidence of engagement to be submitted to and approved by certifier/Council prior to issue of **the Final** Occupation Certificate

This information is to be submitted with the Landscape Plan, in conjunction with this condition.

- e. Landscape works required by this condition only pertain to Stage 1 which incorporates Buildings A, B, C, D, E, F and G, as shown on the approved Overall site staging plan – DA01 Revision E and dated 20 July 2011.

- b) Condition C12 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

C12 Developer Contribution

- a. The following is to be made for the provision of public infrastructure and services in respect of Stage 1 prior to the issue of the first Occupation Certificate for Stage 1 works:
- i. a total cash contribution of \$6,941,077.00 (subject to C12(c) below); and
 - ii. works-in-kind to the value of \$2,586,359 (including the dedication of 6,681sqm of land in accordance with C12 (d) below).

The cash contribution required by Condition C12(a)(i) shall be proportionately reduced based on the final dwelling density and dwelling mix resulting from compliance with Condition B1 above. Details of the amended cash contribution and relevant calculations shall be submitted to and be approved by the Director General prior to the issue of the first Construction Certificate for the approved development.

- b. The Proponent shall provide evidence of payment of the cash contribution in Condition C12(a) to the Certifying Authority within 14 days of fulfilling C12(a).

- c. If the cash contribution for Stage 1 stated in C12 (a) (or any part of it) remains unpaid after 30 June 2011, the amount unpaid (whether it be the full cash contribution amount or a part of it) will increase on a quarterly basis in accordance with the applicable Consumer Price Index. If this Condition applies, the cash contribution payable under C12 (a) will be the total unpaid cash contribution in C12 (a) as adjusted under this Condition.
- d. The Proponent shall dedicate to Pittwater Council 15,601sqm of land as detailed on the plan attached to the correspondence from the Proponent dated 11 November 2010 for the provision of multi-functional creek line corridors and open space. The area to be dedicated is to be subject to a final plan of survey prepared by a registered surveyor and shall be detailed on the required Plan of Subdivision. The required dedication is to take place by way of subdivision. Evidence that the required Subdivision Certificate has been registered shall be provided to the Certifying Authority prior to the issue of the ~~first~~ **Final** Occupation Certificate for Stage 1 works.
- e. In accordance with the Warriewood Valley Section 94 Contributions Plan No. 15, the Proponent may negotiate with Council for the direct provision of other facilities and services and dedication of land (other than the 15,601sqm of land stated above) in lieu of the cash contribution in C12 (a) above (or any portion of that cash contribution) through an agreement for Material Public Benefit under the Warriewood Valley Section 94 Contributions Plan No. 15. Where an agreement for Material Public Benefit is sought in lieu of payment of the cash contributions in C12 (a) (or any portion of that cash contribution), the agreement for Material Public Benefit is to be finalised and signed by the Proponent and Pittwater Council prior to the release of the ~~first~~ **Final** Occupation Certificate.

ADVISORY NOTE:

As detailed in the Proponent's revised Statement of Commitments dated 12 November 2010 for the Concept Plan (MP09_0162), a total developer contribution for the provision of public infrastructure and services of \$19,041,428.00, comprising a total cash contribution of \$13,152,752.00 and an agreed schedule of works-in-kind to the value of \$5,888,676.00 (including the dedication of 15,601sqm of land), is to be made by the Proponent in relation to the project the subject of Concept Plan MP09_0162 (which comprises this Stage 1 and subsequent stage(s) of development). The total cash contribution detailed above shall be proportionately reduced based on the final dwelling density and dwelling mix resulting from compliance with Modification 2 of the Concept Plan approval (MP09_0162) and Condition B1 of the Project Application approval (MP10_0177).

Following the payment of the Stage 1 contributions in C12(a), the remaining cash contribution for subsequent stage(s) of the project shall be paid prior to the issue of the first Occupation Certificate for any works associated with any subsequent stage(s) and evidence of payment shall be provided to the Certifying Authority as detailed in the Proponent's revised Statement of Commitments for the Concept Plan dated 12 November 2010, subject to conditions in any approval for subsequent stages(s) of the project.

- c) Condition F4 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

F4 Certifying Authority to Arrange Qualified Landscape Architect

The Certifying Authority shall arrange for a qualified Landscape Architect / Designer to inspect the completed landscape works to certify adherence to the Approval conditions and Construction Certificate drawings. Landscape works within and adjacent to the areas the subject of the Occupation Certificate are to be fully completed prior to the issue of the **Final** Occupation Certificate.

- d) Condition F12 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

F12 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is be met in full by the Proponent/developer prior to the issue of any **the Final** Occupation Certificate.

- e) Condition F13 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

F13 Landscaping shall be completed prior to occupation

The landscaping adjacent to and within the areas the subject of the occupation shall be fully completed in accordance with the approval and approved plans, prior to **final** occupation or use of the premises, and shall be maintained at all times.

- f) Condition F14 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

F14 Works within Council's road reserve

- a. Prior to the issue of a final Occupation Certificate for the buildings in each stage, all works in the public roads (Macpherson Street and Boondah Road) described in the plans required in the Construction Certificate (in accordance with the staging as outlined in Condition C6) must be constructed.
- i. A certificate submitted by a Chartered Professional Engineer confirming, to the satisfaction of the Principal Certifying Authority, that the works in the public road reserve comply with Council requirements.
 - ii. Photographic evidence of the condition of the street trees and road reserve, including the area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated, that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any **the Final** Occupation Certificate.
 - iii. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the **Final** Occupation Certificate application.

- g) Condition F16 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

F16 Certification

Prior to issue of the Occupation Certificate, the following certification matters are to be obtained and submitted to the Principal Certifying Authority:

Completed Form 3 of the *Geotechnical Risk Management Policy* in accordance with *Pittwater 21 Development Control Plan* (Appendix 5).

a. Water Management

- i. Certification by a qualified experienced practising Civil Engineer with corporate membership of Engineers Australia (MIEAust), or who is eligible to become a member and has appropriate experience and competence in the related field, that the drainage/stormwater management system has been installed to the manufacturer's specification (where applicable) and completed in accordance with the engineering plans and specifications required under this approval.
- ii. The Water Management Report and all associated plans and detailed design must be certified in accordance with the Warriewood Valley Water Management Specification (February 2001) and as meeting the requirements of these conditions
- iii. Certification is to be provided to Council, by an appropriately qualified professional as prescribed in this development approval, that works associated with the water management system have been carried out and completed in accordance with the Water Management Report required under this approval. Certification is to be provided in accordance with the Warriewood Valley Water Management Specification (February 2001).

A copy of the updated Water Management Report required under this approval must be submitted to Council. The Water Management Report must contain all reports, assessments and plans as required by the *Warriewood Valley Water Management Specification* (February 2001).

- iv. Notification to Council, certified by an appropriately qualified professional, will be required to change Council's Flood Hazard Classification of the properties, for the purpose of changing notations on the Section 149(2) Planning Certificates of the properties issued under the Environmental Planning and Assessment Act, 1979. Any change in Flood Hazard Classification and accompanying change in Section 149(2) Planning Certificate notations must be adopted by the elected Council and so should be submitted in sufficient time to complete this process.

The above requirements shall be satisfied prior to issue of the Final Occupation Certificate.

b. Groundwater Management

Certification by an appropriately qualified professional, as prescribed by this approval, that works associated with the updated Hydrogeological Assessment and associated plans and detailed design required under this approval have been carried out and completed. **This requirement shall be satisfied prior to issue of the Final Occupation Certificate.**

c. Civil Engineering Works, including roads and drainage

- i. All roads, drainage and civil engineering works required by these conditions of this approval are to be completed prior to the issue of the **Final** Occupation Certificate.
- ii. Certification is to be provided to Council **prior to the issue of the Final Occupation Certificate**, by an experienced civil engineer who is NPER accredited by the Institution of Engineers Australia, that all roads, drainage and other civil engineering works relating to Macpherson Street, Boondah Road and the development site (STP Buffer Area 3) have been carried out and completed in accordance with the engineering plans and specifications required under this approval.
- iii. A maintenance period is to apply to all civil engineering works to be dedicated to Council or which will require ongoing maintenance by Council. The maintenance period will apply for six (6) months after the issue of the **Final** Occupation Certificate. In that period the applicant will be liable for any part of the works which fail to perform in the manner required by the relevant certifications, or would reasonably be expected under the design conditions.

d. Requirements of the NSW Rural Fire Services

- i. Certification from a Suitably Qualified Professional certifying that the requirements of the NSW Rural Fire Service, have been satisfied/ complied with.
- ii. Evidence is to be provided in writing that a Monitoring and Fuel Management Program has been implemented in accordance with the Bushfire Risk.

The above requirements shall be satisfied prior to issue of the Final Occupation Certificate.

e. Installation of Smoke Alarms

All proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any **the relevant** Occupation Certificate.

f. Landscaping including Removal of Noxious Weeds

- i. Certification by a Landscape Architect that all the landscaping works have been completed in accordance with the approved landscape plans required under this approval.
- ii. (ii) The removal of Noxious and Environmental Weeds is certified by a Bushland Management Consultant as being complete, in accordance with this approval.

The above requirements shall be satisfied prior to issue of the Final Occupation Certificate.

g. Installation of Nest Boxes

At least ten (10) nest boxes (models as shown on Council website www.pittwater.nsw.gov.au) are to be appropriately installed in existing trees. A Bushland Management Consultant is to certify that this has been appropriately completed **prior to issue of the Final Occupation Certificate.**

h. Section 73 Compliance Certificate

A copy of the Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994, is to be forwarded to the Private Certifying Authority **prior to the issue of any Occupation Certificate.**

- h) Condition F17 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

F17 Engagement of Landscape maintenance contractor

A landscape maintenance contractor is to be engaged to maintain the landscape elements/planting for the 24 months period in accordance with the approved landscape plans and Landscape Management Plan (under condition C2 of this approval), prior to the issue of ~~any~~ **the Final** Occupation Certificate.

Details of the landscape maintenance contractor engaged in accordance with this condition is to be provided to the Principal Certifying Authority and Council.

End of Modifications to MP10_0177