

# Notice of Modification

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

As delegate of the Minister for Planning under delegation dated 14 September 2011, the Planning Assessment Commission approves the modification of the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Member of the Commission

24 March 2016

Sydney

### SCHEDULE 1

<b>Project Approval:</b>	<b>MP 09_0121</b> granted by the Minister for Planning on 24 November 2010.
<b>For the following:</b>	Mixed Use Residential Development over two stages, including: <ul style="list-style-type: none"><li>• Stage 1 – Construction of a 7 storey mixed use residential building; and</li><li>• Stage 2 – Construction of a 2 storey commercial / retail building.</li></ul>
<b>The Land:</b>	Memorial Avenue and The Esplanade, Ettalong Beach Lots 111, 112, 113, 114, 115, and 116 DP10650
<b>Modification:</b>	<b>MP 09_0121 MOD 1:</b> Amendments to Stage 1 incorporating 14 additional apartments and changes to internal and external design of the development.

The above approval (MP09\_0121) is modified as follows:

### SCHEDULE 2

- (a) Condition A2 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

#### **A2 Development in Accordance with Plans and Documentation**

The development will be undertaken in accordance with MP No. 08\_0121 and the Environmental Assessment dated April 2010, prepared by Kann Finch Group Pty Ltd, except where amended by the Preferred Project Report dated 3 September 2010, prepared by Kann Finch Group Pty Ltd., **and as amended by the documents submitted with Modification 1 including the Statement of Environmental Effects**

**by Planning Lab and Response to Submissions dated 05.06.2016** and the following drawings:

<b>Architectural Drawings prepared for the Environmental by Kann Finch Group Architects</b>				
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Drawn By</b>	<b>Date</b>
A003	A	Ground Floor & B1 Revised Envelope	Kann Finch Group	04.11.10
A004	A	Levels 1 & 2 Revised Envelope	Kann Finch Group	04.11.10
A005	A	Level 3 — 5 Plans Revised Envelope	Kann Finch Group	04.11.10
A006	B	Level 6 Plan Revised Envelope	Kann Finch Group	04.11.10
A007	B	Sections Revised Envelope	Kann Finch Group	04.11.10
A008	A	South & West Elevation	Kann Finch Group	04.11.10
A009	A	East & North Elevation	Kann Finch Group	04.11.10
<b>Landscape Plan</b>				
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Drawn By</b>	<b>Date</b>
101	B	Ground Floor Landscape Plan	Site Image	13.01.10
501	A	Typical — Details, — Schedule and Specification notes	Site Image	13.01.10

<b>Architectural Drawings prepared by CDArchitects</b>				
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Drawn By</b>	<b>Date</b>
<u>DA100</u>	<u>A</u>	<u>Basement Plan</u>	<u>CDArchitects</u>	<u>23.11.15</u>
<u>DA101</u>	<u>C</u>	<u>Ground Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA102</u>	<u>C</u>	<u>Upper Ground Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA103</u>	<u>C</u>	<u>Level 01 Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA104</u>	<u>C</u>	<u>Level 02 Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA105</u>	<u>C</u>	<u>Level 03 Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA106</u>	<u>C</u>	<u>Level 04 Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA107</u>	<u>C</u>	<u>Level 05 Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA108</u>	<u>A</u>	<u>Level 06 Floor Plan</u>	<u>CDArchitects</u>	<u>23.11.15</u>
<u>DA109</u>	<u>A</u>	<u>Roof Plan</u>	<u>CDArchitects</u>	<u>23.11.15</u>
<u>DA200</u>	<u>C</u>	<u>North &amp; South Elevations</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA201</u>	<u>C</u>	<u>East &amp; West Elevations</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA300</u>	<u>C</u>	<u>Section A</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA500</u>	<u>A</u>	<u>Pre &amp; Post Adaptable Unit Layout</u>	<u>CDArchitects</u>	<u>23.11.15</u>
<u>DA501</u>	<u>A</u>	<u>Basix Info Sheet 1</u>	<u>CDArchitects</u>	<u>23.11.15</u>
<u>DA502</u>	<u>A</u>	<u>Basix Info Sheet 2</u>	<u>CDArchitects</u>	<u>23.11.15</u>
<u>DA710</u>	<u>C</u>	<u>Photomontage</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA730</u>	<u>C</u>	<u>Finishes Schedule</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA731</u>	<u>C</u>	<u>Details Sheet</u>	<u>CDArchitects</u>	<u>05.02.16</u>

<u>DA800</u>	<u>C</u>	<u>Stage 2 Basement 1 &amp; Ground Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA801</u>	<u>C</u>	<u>Stage 2 Level 1 &amp; 2 Floor Plan</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA802</u>	<u>C</u>	<u>Stage 2 West Elevation</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>DA803</u>	<u>C</u>	<u>Stage 2 East Elevation</u>	<u>CDArchitects</u>	<u>05.02.16</u>
<u>Landscape Plan</u>				
<u>Drawing No.</u>	<u>Revision</u>	<u>Name of Plan</u>	<u>Drawn By</u>	<u>Date</u>
<u>DA01</u>	<u>B</u>	<u>Ground Floor Planting Plan</u>	<u>Site design studio</u>	<u>05.02.16</u>
<u>DA02</u>	<u>A</u>	<u>Level 1 Planting Plan</u>	<u>Site design studio</u>	<u>05.02.16</u>
<u>DA03</u>	<u>A</u>	<u>Level 3 Planting Plan</u>	<u>Site design studio</u>	<u>05.02.16</u>
<u>DA04</u>	<u>A</u>	<u>Typical Details</u>	<u>Site design studio</u>	<u>05.02.16</u>

except for:

- any modifications which are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- otherwise provided by the conditions of this approval.

(b) Condition B1 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck out~~ words as follows:

#### **B1. Modification of details of the development**

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- Adequate lighting to AS1158 is to be provided to common areas.
- Landscaping adjacent to mailboxes and footpaths must not provide for the concealment opportunities for criminal activity.
- The development must be designed to avoid foot holes or natural ladders so as to minimise unlawful access to the premises.
- Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- The driveway, vehicle manoeuvring area and ~~93~~ **90** car parking spaces as shown on the approved plans must be properly constructed, graded, drained, sealed and line marked including directional arrows with impervious paving material, in accordance with Australian Standard 2890.1-2004 Off Street Parking.
- ~~The development shall incorporate a stormwater retention system consisting of either rainwater tanks and/or stormwater tanks (as defined in DCP 165 Water Cycle Management) with a minimum total capacity of 10,000 litres, capturing water from at least 90% of the total roof area. The water collected is to be suitably treated and connected to an external tap, all toilet cisterns and cold washing machine tap(s). Overflow from the rainwater tanks and/or stormwater tanks are to be directed by a piped drainage line to an inter-allotment drainage line.~~
- Impervious surface areas including pathways and driveways are to be graded and drained to prevent water run-off affecting adjoining properties.

- h) Driveways/ramps and car parking areas must be designed according to the requirements of the current Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs.
- i) Nutrient/pollution control measures must be designed in accordance with Council's DCP165 - Water Cycle Management. A nutrient/pollution control report including an operation and maintenance plan shall accompany the design.
- j) The secondary stormwater flow path as shown on the approved plans (located between the Laneway and The Esplanade on the eastern side of the development) shall be capable of conveying 50% of the 1% AEP flood flow shall be designed in accordance with Council's 'GCC Design Specification for Survey, Road and Drainage Works' & 'Civil Construction Specification'.
- k) The minimum floor level of all habitable rooms in the development must be 500mm above the 1% AEP flood level associated with the laneway secondary stormwater flow path located between the laneway and The Esplanade.
- l) The location of all electronic fixtures and/or gas outlets on the ground floor are to be at a minimum height of 500mm above the 1%AEP flood level associated with the laneway secondary stormwater flow path located between the laneway and The Esplanade.
- m) **Windows facing on to the rear laneway are to be incorporated into the ground floor level commercial tenancies within Stage 1, generally consistent with the details shown in A003 and A009, Revision A dated 04.11.10.**
- n) **Incorporation of external shading devices for all east or west facing windows which would not be otherwise shaded by eave or balcony overhangs.**
- o) **The floorplan of Unit 501 is to be modified so that the balcony is increased in size to be consistent with the size and design of the balcony at Unit 401.**

(c) Condition B2 is deleted as follows:

### **B2. Climate Change**

~~A revised Climate Change Statement that includes further investigation of impacts of potential sea level rise on rising groundwater levels, shall be submitted to and approved by the Department of Planning prior to the release of a Construction Certificate.~~

(d) Condition B3 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck out~~ words as follows:

### **B3. S94 Contributions**

The following contributions are payable under Section 94 of the Environmental Planning and Assessment Act 1979 in accordance with the relevant Council Contribution Plan No 31A, 31B, 31C & 31D - Peninsula as amended and are subject to quarterly review as detailed in the Contribution Plan.

Roadwork - Capital	B	(Key No 789)	\$22,022.00	<b><u>\$32,154.00</u></b>
Open Space - Land	C	(Key No 791)	\$83,790.00	<b><u>\$109,270.00</u></b>
Open Space - Embellishment	C	(Key No 790)	\$188,773.00	<b><u>\$280,812.00</u></b>
Community Facilities - Land	D	(Key No 793)	\$4,357.00	<b><u>\$5,582.00</u></b>
Community Facilities - Capital	D	(Key No 792)	\$56,420.00	<b><u>\$82,304.00</u></b>
Drainage - Land	A	(Key No 787)	\$17,324.00	<b><u>\$21,960.00</u></b>
Drainage - Capital	A	(Key No 788)	\$55,574.00	<b><u>\$80,273.00</u></b>
<b>TOTAL AMOUNT</b>			<b><u>\$428,260.00</u></b>	<b><u>\$612,355.00</u></b>

The total contribution amount of ~~\$428,260.00~~ **\$612,355.00** is to be paid prior to the issue of a Construction Certificate.

**This amount reflects the contribution at the date of Modification 1 only.** The basis of the calculation and the total contribution amount is subject to quarterly review. An adjustment amount will become payable if the contribution is not paid prior to the next review.

A copy of the Contribution Plan may be inspected at the office of Gosford City Council, 49 Mann Street, Gosford NSW or on Council's website [www.gosford.nsw.gov.au/customer/document/gallery/contribution\\_plans](http://www.gosford.nsw.gov.au/customer/document/gallery/contribution_plans)

(e) Condition B4 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

#### **B4. Contribution Plan No. 72 Car Parking Ettalong Beach- Stage 1**

A cash contribution of ~~\$117,666.00~~ **\$73,900.00** (Account No D9072.837 - Key 715) in lieu of the provision of ~~48~~ **10** car parking spaces generated by the proposed development under Contribution Plan No 72 Car Parking Ettalong Beach, prior to the issue of the Construction Certificate. This amount reflects the contribution at the date of ~~consent~~ **Modification 1** only.

The actual amount to be paid prior to the issue of a Construction Certificate is to be adjusted with the current quarterly review.

A copy of the Contribution Plan may be inspected at the office of Gosford City Council, 49 Mann Street, Gosford NSW or on Council's website [www.gosford.nsw.gov.au/customer/document/gallery/contribution\\_plans](http://www.gosford.nsw.gov.au/customer/document/gallery/contribution_plans)

(f) Condition B7 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

#### **B7. Road to the Public Road Reserve**

All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's "Civil Construction Specification", "GCC Design Specification for Survey, Road and Drainage Works" and "Policy 'D6.46 Erosion Sedimentation Control".

The required works to be designed are as follows:

- a) Reconstruction of the laneway including kerb and guttering (both sides), subsoil drainage, drainage and a minimum 6m wide road pavement for the length of the laneway immediately adjacent to the development site. The reconstruction laneway is to accommodate a traffic loading of 2x10<sup>6</sup> ESA's. The final levels of the reconstructed laneway are not to obstruct stormwater from adjoining properties or divert stormwater into adjoining properties.
- b) The design of Stage 2 shall accommodate the swept turning path of the AS2890.2:2002 Heavy Rigid Vehicle to reverse into the north-south section of the laneway from the east west laneway, and then exit in a forward direction out into the east-west laneway to the east (towards Picnic Parade).
- c) Reconstruction of the kerb and gutter across the frontages of the site in Memorial Avenue and The Esplanade where it was not previously reconstructed as part of

the road works associated with the development on the western side of Memorial Avenue.

- d) Replacement of the existing concrete footway with full width pavers across the full frontage of the site in The Esplanade. The theme of the new paving is to reflect the Ettalong CBD master plan. The footway formation is to be graded at +2.5% from the top of kerb to the property boundary.
- e) Replacement of the old paving in Memorial Avenue with full width pavers across the full frontage of stage 1 of the site in Memorial Avenue. The theme of the new paving is to reflect the Ettalong CBD master plan. The footway formation is to be graded at +2.5% from the top of kerb to the property boundary.
- f) Replacement of the concrete footpath in Memorial Avenue with full width pavers across the full frontage of stage 2 of the site in Memorial Avenue. The theme of the new paving is to reflect the Ettalong CBD master plan. The footway formation is to be graded at +2.5% from the top of kerb to the property boundary.
- g) Reconstruction of a new heavy-duty vehicular access crossing in Memorial Avenue at the intersection of Memorial Avenue and the laneway. The width of the new access crossing is to accommodate the swept turning paths of an AS2890.2:2002 Articulated Vehicle entering the laneway from both the northbound and southbound lanes in Memorial Avenue.
- h) Construction of a heavy-duty vehicle crossing on the southern boundary of the laneway that has a length along the laneway of 44m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- i) Construction of a heavy-duty vehicle crossing on the northern boundary of the (east-west) laneway that has a length along the laneway of 6m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- j) Stormwater pipe (minimum 375mm diameter) within Memorial Avenue from the frontage of stage 2 to the other side of the road. A kerb inlet pit is to be provided in the kerb line on both sides of the road.
- k) All redundant dish crossings and/or damaged kerb and gutter are to be removed and replaced with new kerb and gutter.
- l) The piping of stormwater from within the site to Council's drainage system located in Memorial Avenue.
- m) Roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rail in accordance with RTA and Australian Standards.
- n) Signage and line marking. The signage and line marking plan for the proposed one-way movements in the laneway across the frontage of the site shall be approved by the Council Traffic Committee.
- o) Pram ramps on both sides of the laneway at the intersection of the laneway with the footway in Memorial Avenue.
- p) Removal of the ~~proposed~~ street trees **and provision of new street trees** and landscaping areas within the road pavements in Memorial Avenue and The Esplanade. **New** ~~Any proposed~~ street trees are to be provided within the footways adjacent to the kerbs in accordance with the landscape master plan for the Ettalong Beach CBD **and generally in accordance with the Ground Floor Landscape Plan No 101 Revision B dated 13.01.10.**

The engineering plans must be approved by Council prior to the issuing of a Construction Certificate required under this consent.

- (g) Condition B14 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

#### **B14 Groundwater Investigation**

Further groundwater geotechnical investigation assessment must be undertaken. The investigation shall establish what impacts the development will have upon the underlying aquifer and ground water levels and how any impacts will be appropriately mitigated. The assessment is to include consideration of how ground water levels may rise in the future with sea level rise and shall be submitted to and approved by the Department of Planning in consultation with the NSW Office of Water prior to the issuing of the Construction Certificate.

(h) Condition B17 is amended by the deletion of the ~~struck-out~~ words as follows:

**B17. Landscaping Plan**

A detailed roof top landscape plan is to be submitted to and approved by the PCA prior to the issuing of any construction Certificate for Stage 1. ~~The landscaping plan is to include details of privacy screens that prevent direct overlooking between units and be consistent with materials and theme of the approved ground level landscaped plan Drawing No. 101 B prepared by Site Image and dated 13.01.10.~~

**End of Modification**