

Concept Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, we the Planning Assessment Commission of New South Wales (the Commission) determine:

- (a) to approve the concept plan referred to in Schedule 1, subject to the terms of approval in Schedule 2 and the Proponent's Revised Statement of Commitments in Schedule 4, pursuant to Section 75O of the *Environmental Planning and Assessment Act 1979*; 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.

Member of the Commission

Member of the Commission

Member of the Commission

Sydney

2013

SCHEDULE 1

PART A: PARTICULARS

Application No.:	MP 08_0207
Proponent:	Brett Stephen Lord and Marcus William Ayres as Joint and Several Receivers and Managers of the Site
Approval Authority:	Minister for Planning and Infrastructure
Land:	1, 1A and 5 Avon Road and 4 and 8 Beechworth Road, Pymble (Lot 1 DP 583803, Lot 2 DP 583803, Lot 2 DP 205504, Lot 1 DP 403072 and Lot 3 DP 403072)
Project:	<p>Residential development comprising:</p> <ul style="list-style-type: none">• four (4) building envelopes incorporating basement level parking;• 22,442m² GFA for residential use and up to a total of 273 dwellings;• on-site parking rates;• vegetation management plan;• landscape concept including pedestrian through-site links; and• stormwater concept.

PART B: NOTES RELATING TO THE DETERMINATION OF MP 08_0207

Responsibility for other approvals/ agreements

The Proponent is responsible for ensuring that all additional approvals and agreements are obtained from other authorities, as relevant.

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

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.

Council means Ku-ring-gai Council.

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 Sheridan Planning, and dated November 2010, including supporting documents.

FFL means finished floor level.

GFA means gross floor area.

Minister means the Minister for Planning & Infrastructure.

MP No. 08_0207 means the Major Project described in the Proponent's Preferred Project Report.

Preferred Project Report (PPR) means the Preferred Project Report prepared by Urbis Pty Ltd and dated 30 November 2012.

Revised Preferred Project Report means the document prepared by Urbis Pty Ltd and dated May 2013.

Proponent means Brett Stephen Lord and Marcus William Ayres as Joint and Several Receivers and Managers of the Site or any party lawfully acting upon this approval.

Certifying Authority has the same meaning as Part 4A of the Act.

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

Subject Site has the same meaning as the land identified in this Schedule.

End of Schedule 1

SCHEDULE 2

PART A – TERMS OF APPROVAL

Development Description

A1 Concept approval is granted to the development as described below:

Use of the site for a residential development including:

- four (4) building envelopes incorporating basement level parking;
- 22,442m² GFA for residential use and up to a total of 273 dwellings;
- on-site parking rates;
- vegetation management plan;
- landscape concept including pedestrian and cyclist through-site links; and
- stormwater concept.

Development in Accordance with the Plans and Documentation

A2 The development shall be undertaken generally in accordance with:

- the Environmental Assessment dated November 2010 prepared by Sheridan Planning, except where amended by the Preferred Project Report prepared by Urbis Pty Ltd and dated 30 November 2012 and the Revised Preferred Project Report prepared by Urbis Pty Ltd and dated May 2013, including all associated documents and reports;
- the Statement of Commitments prepared by Urbis Pty Ltd and included in the Revised PPR dated May 2013; and
- the following drawings:

<i>Drawings Prepared by Marchese Partners International Pty Ltd</i>		
<i>Drawing No</i>	<i>Name of Plan</i>	<i>Date</i>
MP 08.17 Rev A	Indicative Design – Building Envelope Plan	18/04/2013
MP 08.18 Rev A	Indicative Design – Typical Floor Plan	18/04/2013
MP 10.00 Rev A	Building Separation Plan – Concept Design	18/04/2013
<i>Landscape Plans Prepared by Site Image (NSW) Pty Ltd</i>		
MP - 001 Issue H	Landscape Masterplan	20/05/2013
MP - 002 Issue G	Tree Removal and Retention Plan	20/05/2013
MP - 003 Issue I	Landscape Zones	20/05/2013
MP - 004 Issue G	Landscape Design Features	22/05/2013
MP - C100 Issue H	Landscape Masterplan Colour	20/05/2013

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

Inconsistencies Between Documentation

A3 In the event of any inconsistency between modifications of the Concept Plan approval identified in this approval and the drawings / documents including the Statement of Commitments referred to above, the modifications of the Concept Plan shall prevail.

Building Envelopes

A4 Building footprints and setbacks are to be generally consistent with the Building Envelope Plan.

Maximum Gross Floor Area (GFA)

A5 The maximum GFA for the development shall not exceed 22,442m² of residential GFA.

Maximum Number of Residential Units

A6 The maximum number of residential dwellings shall not exceed 273 units.

Publicly Accessible Open Space

A7 Public access to the Conservation Area within the Concept Plan site shall be provided. The Conservation area is to be retained in private ownership and maintained by the future body corporate or community association.

Indirect Impacts to Endangered Ecological Community

A8 The indirect impacts identified by the Office of Environment and Heritage in its letter of 15 February 2011 shall be addressed prior to the commencement of any work on the site.

Pedestrian Crossing Upgrades on Avon Road

A9 The Proponent is to investigate the vehicle swept paths for the location of the pedestrian refuge at the bend in Avon Road to ascertain whether it would impact on the path of travel for coaches and other heavy vehicles. In the event that this option is demonstrated not to be feasible, an alternative solution is to be designed in consultation with Council and approved by the Local Traffic Committee, prior to occupation of the Stage 1 building.

Lapsing of Approval

A10 Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval, unless an application is submitted to carry out a project or development for which concept approval has been given.

PART B - MODIFICATIONS

Car Parking

B1 The rate of visitor car parking shall be modified to 1 space per 5 - 7 dwellings.

Building Envelope 3

B2 Levels 6 and 7 on the south western corner of the Building 3 shall be set back an additional 3 metres to ensure the amenity of 1 Arilla Road is preserved and to provide a more appropriate transition between the existing and proposed development is achieved.

B3 The basement footprint shall be adjusted to provide a minimum setback of 6 metres from the common boundary with 1 Arilla Road to ensure the provision of effective screen planting in deep soil.

End of Schedule 2

SCHEDULE 3

FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Design Excellence

1. Future Development Applications shall demonstrate that the design achieves a high standard of architectural design incorporating a high level of modulation / articulation of the building(s) and a range of high quality external materials and finishes.

Built Form

2. Future Development Applications shall provide for utility infrastructure, including substations, within the building footprint, wherever possible. If this is not possible, infrastructure shall be located outside of the public domain and appropriately screened.
3. Future Development Application/s for the Building 3 envelope shall adjust the basement footprint to provide an appropriate setback from the common boundary with 15 Avon Road to ensure the provision of effective screen planting in deep soil. The extent of the setback and the planting detail shall be determined in consultation with the Project Landscape Architect and shall demonstrate the efficacy of the screening function of the species selected.
4. Future Development Application/s for the Building 4 envelope shall be accompanied by an Arborist's report which provides a detailed assessment of the impact of the development on the existing mature Turpentine trees located within the boundary of No. 3 Avon Road, adjacent to the common boundary with the Concept Plan site and which makes recommendations to ensure their ongoing health and stability.
5. Future Development Application/s for the Building 4 envelope shall demonstrate that privacy is maintained to / from dwellings in Building 1. In this regard a range of architectural devices could be considered including highlight windows, louvres, screens or blade walls.

Landscaping

6. Future Development Applications shall include detailed landscape plans for publicly accessible open spaces and private open space areas, street setback areas and for the landscape treatment of all adjoining public domain areas and road reserves.

Vegetation Management

7. Future Development Applications shall ensure appropriate measures are in place for the delivery of the Vegetation Management Plan (VMP) to practical completion of revegetation / rehabilitation works and ongoing monitoring and maintenance.
8. The VMP shall include full details of aquatic weed monitoring and management to demonstrate appropriate control of aquatic weed species.
9. Future Development Applications for subdivision of the site shall ensure that adequate arrangements are in place for the ongoing monitoring and management of the Conservation Area as identified by the Landscape Masterplan.

Public Access

10. Future Development Applications shall clearly set an appropriate legal mechanism for creating rights of public access to all publicly accessible areas of open space and through site links, with the relevant instrument/s to be executed prior to commencement of the occupation/use of the development.

11. Future Development Applications shall include detailed design and engineering details of the through-site pedestrian / cycle link between Avon and Beechworth Roads.

Car Parking

12. Future Development Applications shall provide on-site car parking at the following maximum rates:
 - (a) 1 space per studio;
 - (b) 1 space per 1 bedroom apartment;
 - (c) 1 space per 2 bedroom apartment;
 - (d) 2 spaces per 3 bedroom apartment; and
 - (e) 1 visitor space per 5-7 apartments.

Bicycle Parking

13. Future Development Applications shall provide bicycle parking at the rate of 1 space per 5 units for residents and 1 bicycle space / 10 units for visitors.

Residential Amenity

14. Future Development Applications shall demonstrate compliance with the provisions of the *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development* (SEPP 65) and the accompanying *Residential Flat Design Code 2002* (RFDC), except where modified by this Concept Plan approval. In particular, future applications shall demonstrate that:
 - (a) a minimum of 60% of apartments within each stage are capable of being naturally cross ventilated; and
 - (b) a minimum of 70% of apartments within each stage receive a minimum of 3 hours solar access to living areas and balconies mid winter.

ESD

15. Future Development Applications shall demonstrate the incorporation of ESD principles in the design, construction and ongoing operation phases of the development.

Section 94 Contributions

16. Future Development Applications shall be required to pay developer contributions to the Council towards the provision or improvement of public amenities and services. The amount of the contribution shall be determined by Council in accordance with the requirements of the Contributions Plan current at the time of approval.

Heritage

17. Future Development Applications involving the demolition of the existing heritage item at 1 Avon Road shall include:
 - (a) a detailed heritage assessment of the site which includes a professionally written history of the site; and
 - (b) a full photographic record.

A copy of the documentation shall be provided to Council for its records.

Adaptable Housing

18. Future Development Applications shall provide a minimum of 10% of apartments as adaptable housing in accordance with Australian Standard 4229-1995.

Construction Management

19. Future Development Applications shall include details of the mechanisms employed to manage the Building 3 construction process to protect the lower pond.

Roads and Maritime Services Requirements

20. Future Development Applications shall be accompanied by a detailed Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control and forwarded to the RMS for review.

Bushfire Safety Requirements

21. Future Development Applications shall demonstrate compliance with the recommendations set out in the Bushfire Protection Assessment prepared by Australian Bushfire Protection Planners Pty Ltd dated 17 December 2012 and supplementary advice dated 27 May 2013.
22. Future Development Applications shall address the bushfire risk associated with the proximity of the conservation area to the dwelling at No. 1 Arilla Road.
23. Future Development Applications shall demonstrate compliance with the requirements of the Rural Fire Service as detailed in its correspondence dated 14 February 2013.

RailCorp Requirements

24. Future Development Applications shall demonstrate compliance with the requirements set out in Attachment A of RailCorp's correspondence dated 15 March 2013.

Sydney Water Requirements

25. Future Development Applications shall address Sydney Water's requirements in relation to:
 - (a) required amplification works to existing drinking water mains (if required);
 - (b) any required amplification works to the wastewater system; and
 - (c) application for Section 73 certificates as necessary.

Contamination

26. Future Development Applications shall provide evidence that the site is suitable for the intended residential use and include the following:
 - (a) further site investigations that includes sampling and analysis after the vegetation (weeds and noxious plants) has been cleared undertaken in accordance with the recommendations of the Stage 1 Environmental Assessment prepared by Environmental Investigation Services dated December 2012;
 - (b) a waste classification is assigned to any fill material that is excavated for off-site disposal; and
 - (c) a Hazardous Building Materials Survey of the existing buildings and structures on the site is undertaken prior to demolition.
27. In the event that any significant contamination is encountered, a Remedial Action Plan (RAP) will be required

End of Schedule 3

SCHEDULE 4

PROPONENT'S STATEMENT OF COMMITMENTS

Draft Statement of Commitments

Concept Plan MP08_0207

REFERENCE	COMMITMENT
Contributions	<ul style="list-style-type: none"> Section 94 Contributions will be paid in accordance with Council's Contributions Plan. Contributions will be calculated at Development Application stage and paid prior to the issue of construction certificates. These contributions will be paid in addition to commitments to off-site improvement works to the Avon Road footpaths/crossing and the Pacific Highway pedestrian underpass.
Residential amenity	<ul style="list-style-type: none"> Hours of demolition will be limited as follows: <ul style="list-style-type: none"> 7am – 6pm Monday to Friday 8am – 2pm Saturday. Privacy louvres will be provided as part of the detailed design stage of Building 3 and Building 5 in the locations indicated on the architectural drawings prepared by Marchese & Partners. Skylights will be provided in Building 3 to ensure that the solar access and natural ventilation meet SEPP 65 requirements.
Public Access Through Site	<ul style="list-style-type: none"> Public rights of pedestrian way into and through the site, from Avon Road to Beechworth Road will be created. The access way will be available following the release of the occupancy certificate for the final building constructed on the site.
Erosion and Sediment Control	<ul style="list-style-type: none"> An Earthworks Management Plan, including Erosion and Sedimentation Plans will accompany each Development Application.
Waste	<ul style="list-style-type: none"> A Waste Management Plan relating to demolition, construction and operation will be prepared for each of the proposed buildings in the Concept Plan and lodged at Development Application stage.
Bicycle Parking	<ul style="list-style-type: none"> Bicycle parking will be integrated at detailed design stage for each Development Application stage.
Water and Utilities	<ul style="list-style-type: none"> Water, electricity and gas will comply with Section 4.1.3 of Planning for Bush Fire Protection 2006. <p><u>Electricity</u></p> <ul style="list-style-type: none"> Where practical and reasonable, electrical transmission lines are to be underground. Where overhead electrical transmission lines are proposed: Lines are installed with short pole spacing (30m) unless crossing gullies and gorges

REFERENCE

COMMITMENT

and no part of a tree is closer to a power line than the distance set out in accordance with the specifications in 'Vegetation Safety Clearances' issued by Energy Australia (NS179, April 2002)

Gas

- Reticulated or bottled gas is installed and maintained in accordance with AS1596 and the requirements of relevant authorities. Metal piping is to be used.
- All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and shielded on the hazard side of the installation.
- If gas cylinders need to be kept close to building, the release valves are directed away from the building and at least 2 metres away from any combustible material, so that they do not act as a catalyst to combustion.
- Connections to and from gas cylinders are metal.
- Polymer sheathed flexible gas supply lines to gas metres adjacent to buildings are not used.

Water Quality

- Water quality and quantity benchmarks will be established in accordance with the 'Stormwater Management and Riparian Issues' Report prepared by NPC and dated November 2012 prior to occupation of Building 1 and throughout construction and completion of Stage 2.

Vegetation Management

- All works and activities on the site will be conducted in accordance with the Vegetation Management Plan prepared by Anne Clements and Associates Pty Ltd, dated 28 November 2012.

Bushfire

Future development applications will implement the relevant recommendations of the Bushfire Report prepared by Australian Bushfire Protection Planners (**Appendix N**) as follows:

- The design and maintenance of the landscaped gardens to the complex, including the 10.00 metre wide buffer zone to Buildings 3, 4 & 5, will comply with the prescriptions of an Inner Protection Area [IPA] pursuant to the specifications of Appendix 5 of Planning for Bushfire Protection 2006 and the NSW Rural Fire Services document 'Specifications for Asset Protection Zones'.
- Buildings will be constructed to comply with BAL 29 specifications pursuant to A.S. 3959 – 2009 – 'Construction of Buildings in Bushfire Prone Areas'.
- A hydrant booster assembly will be provided inside the boundary and adjacent to the entry driveway off Beechworth Road prior to occupation of Building 5.
- The minimum pavement width of the internal driveways will be 6.5 metres. Corners

REFERENCE

COMMITMENT

Heritage

will be designed to permit a Fire & Rescue Urban Pumper [Heavy Rigid Vehicle] and a B9 vehicle to pass and turning facilities will be provided to enable fire appliance egress from the site in a forward direction.

In accordance with the Heritage Report prepared by OCP Architects (**Appendix P**), the following will be incorporated into future Development Applications:

- 1 Avon Road and 5 Avon Road will be recorded prior to demolition, following the guidelines of the NSW Office of Environment and Heritage (Heritage Office) for archival recording. A copy of the archival recording being deposited into Ku-ring-gai's Local Library.
- 1 Avon Road: The following items will be preserved and integrated as far as possible into the new development:
 - The eastern inter war dry laid sandstone boundary wall together with the small fountain (at the southern end of site near the entry gates)
 - The front sandstone fence (repaired as necessary), vehicle and pedestrian and gate posts.
 - Salvage all sandstone building blocks and paving and reuse within the new development
- The two mature palm trees in the front yard of 5 Avon Road, adjacent to Avon Road will be preserved and integrated into the new development.
- An Interpretation Strategy will be prepared for the development that incorporates the history and images of 5 Avon Road. The interpretation will be able to be viewed in public areas of the development.