

Notice of Modification

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

As delegate of the Minister for Planning, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

Sydney 4 November, 2016

SCHEDULE 1

Development Approval: **MP 10_0219** granted by the Land and Environment Court on 24 February 2016

For the following:

Residential Development comprising:

- construction of three residential flat buildings of 3-10 storeys to provide 174 dwellings and ~~257~~ **244** parking spaces across four basement levels;
- interim subdivision into two super lots;
- four lot subdivision on north-western side of the Site;
- construction of four single residential dwelling houses and associated vehicular access on the four lots;
- retention and restoration of the building on 1 Avon Rd (Heritage Item) for common use of future residents;
- demolition of structures on the Site, including the pool and shed at 1 Avon Rd in accordance with the approved demolition plan;
- landscaping, stormwater infrastructure, construction of a footpath on Avon Rd; and
- Implementation of a Vegetation Management Plan to manage and protect the proposed conservation area.

Consent Authority: Minister for Planning

The Land: 1, 1A, 3 and 5 Avon Road and 4 and 8 Beechworth Road, Pymble (Lot 1 DP 583803, Lot 2 DP 583803, Lot 1 and Lot 2 DP 205504, Lot 1 DP 403072 and Lot 3 DP 403072)

Modification: **MP 10_0219 MOD 1:** revised unit mix and minor internal and external design changes to the residential development and administrative changes to conditions.

SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 2 Part A – Term of Approval A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

A1. Development Description

Approval is granted only to carrying out the development described in detail below:

- construction of three residential flat buildings of 3-10 storeys to provide ~~174~~ **168** dwellings and ~~257~~ **244** parking spaces across four basement levels;
- four lot subdivision on north-western side of the Site;
- construction of four single residential dwelling houses and associated vehicular access on the four lots;
- retention and restoration of the building on 1 Avon Rd (the Heritage Item) for common use of future residents;
- demolition of structures on the Site, including the pool and shed at 1 Avon Rd in accordance with the approved demolition plan
- landscaping, stormwater infrastructure, construction of a footpath on Avon Rd; and
- Implementation of a Vegetation Management Plan to manage and protect the proposed conservation area.

- (b) Schedule 2 Part A – Term of Approval A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

A2. Development in Accordance with Plans and Documentation

The development is to be undertaken in accordance with the following plans and documents:

Architectural Plans

MP 20.00	Rev U	Marchese Partners	11 December 2015
MP 21.01 – 21.10	Rev U	Marchese Partners	11 December 2015
<u>21.07</u>			
<u>MP21.08</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>22 June 2016</u>
<u>MP21.09-21.10</u>	<u>Rev U</u>	<u>Marchese Partners</u>	<u>11 December 2015</u>
MP 22.00	Rev U	Marchese Partners	11 December 2015
<u>MP22.03-22.06</u>	<u>Rev X</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP22.07-22.08</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>22 June 2016</u>
<u>MP22.09-22.12</u>	<u>Rev X</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP22.13-22.14</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>1 August 2016</u>
MP 22.03 – 22.15	Rev U	Marchese Partners	11 December 2015
<u>MP23.01</u>	<u>Rev U</u>	<u>Marchese Partners</u>	<u>11 December 2015</u>
<u>MP23.02</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>22 June 2016</u>
MP 23.04 <u>23.03</u> – 23.04	Rev U	Marchese Partners	11 December 2015
MP 26.01 – 26.07	Rev U	Marchese Partners	11 December 2015
MP 27.01 – 27.13	Rev U	Marchese Partners	11 December 2015
MP 28.02 – 28.03	Rev U	Marchese Partners	11 December 2015
MP 30.01 – 30.02	Rev U	Marchese Partners	11 December 2015
MP 31.01 – 31.26	Rev U	Marchese Partners	11 December 2015
<u>MP31.02-31.03</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>22 June 2016</u>
<u>MP31.04-31.06</u>	<u>Rev U</u>	<u>Marchese Partners</u>	<u>11 December 2015</u>
<u>MP31.07-31.12</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>22 June 2016</u>
<u>MP31.13-31.14</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>1 August 2016</u>

<u>MP31.15-31.17</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>1 August 2016</u>
<u>MP31.21</u>	<u>Rev X</u>	<u>Merchese Partners</u>	<u>15 August 2016</u>
<u>MP31.22-31.24</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
MP 32.01 – 32.06	Rev U	Marchese Partners	11 December 2015
MP 33.01 – 33.12 <u>33.10</u>	Rev U	Marchese Partners	11 December 2015
<u>MP33.11</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP33.12</u>	<u>Rev U</u>	<u>Marchese Partners</u>	<u>11 December 2015</u>
MP 34.01 – 34.03	Rev U	Marchese Partners	11 December 2015
MP 40.00	Rev U	Marchese Partners	11 December 2015
MP 41.00 – 41.10	Rev U	Marchese Partners	11 December 2015
MP 42.00 – 42.11	Rev U	Marchese Partners	11 December 2015
MP 43.00 – 43.11	Rev U	Marchese Partners	11 December 2015
MP 44.00 – 44.10	Rev U	Marchese Partners	11 December 2015
MP 45.01 – 45.26 <u>45.13</u>	Rev U <u>V</u>	Marchese Partners	11 December 2015 <u>22 June 2016</u>
<u>MP45.14-45.17</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>1 August 2016</u>
<u>MP45.18-45.20</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>22 June 2016</u>
<u>MP45.21-45.24</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP45.25-45.26</u>	<u>Rev V</u>	<u>Marchese Partners</u>	<u>22 June 2016</u>
MP 52.01 – 52.12	Rev U	Marchese Partners	11 December 2015
<u>MP52.02</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP52.03</u>	<u>Rev U</u>	<u>Marchese Partners</u>	<u>11 December 2015</u>
<u>MP52.04</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP52.05</u>	<u>Rev U</u>	<u>Marchese Partners</u>	<u>11 December 2015</u>
<u>MP52.06</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP52.07</u>	<u>Rev U</u>	<u>Marchese Partners</u>	<u>11 December 2015</u>
<u>MP52.08</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP52.09-52.11</u>	<u>Rev U</u>	<u>Marchese Partners</u>	<u>11 December 2015</u>
<u>MP52.12</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
MP 54.01 – 54.04	Rev U	Marchese Partners	11 December 2015
<u>MP01 Car Parking Space Calculations</u>	<u>Rev Y</u>	<u>Marchese Partners</u>	<u>15 August 2016</u>
<u>MP02 Development Data Units</u>	<u>Rev W</u>	<u>Marchese Partners</u>	<u>5 August 2016</u>
GFA data sheets (3 of) <u>MP03 GFA</u>	Rev U <u>V</u>	Marchese Partners	14 December 2015 <u>29 June 2016</u>
Condenser Location Schedule	Rev U	Marchese Partners	14 December 2015

Landscape Plans

LA00	Rev B	Taylor Brammer	1 September 2015
LA01	Rev B	Taylor Brammer	16 December 2015
LA02 - LA03	Rev A	Taylor Brammer	7 August 2015
LA04-LA05	Rev B	Taylor Brammer	31 August 2015
LA05A	Rev A	Taylor Brammer	31 August 2015
LA06	Rev B	Taylor Brammer	31 August 2015
LA07	Rev A	Taylor Brammer	7 August 2015

LA09	Rev A	Taylor Brammer	7 August 2015
LA10 – LA11	Rev B	Taylor Brammer	4 September 2015
LA12	Rev A	Taylor Brammer	7 August 2015
LA13	Rev B	Taylor Brammer	16 December 2015
LA14	Rev A	Taylor Brammer	7 August 2015
LA15	Rev B	Taylor Brammer	16 December 2015
LA16	Rev A	Taylor Brammer	7 August 2015
LA17 – LA18	Rev B	Taylor Brammer	31 August 2015
LA19	Rev A	Taylor Brammer	7 August 2015
LA 20	Rev B	Taylor Brammer	16 December 2015
LA 21 – LA 23	Rev A	Taylor Brammer	7 August 2015
LA23A – LA23B	Rev A	Taylor Brammer	7 August 2015
LA24	Rev A	Taylor Brammer	7 August 2015
LA25-LA26	Rev B	Taylor Brammer	1 September 2015
LA27-LA31	Rev A	Taylor Brammer	7 August 2015
LA32	Rev B	Taylor Brammer	4 September 2015

Subdivision Plans

150004 P8	Rev A	Robert Moore & Associates	31 August 2015
150004 P9	Rev A	Robert Moore & Associates	15 April 2015

Reports and other documents

	Date	Author	Description
1.	4 September 2015	Marchese Partners	SEPP 65 Design Verification Statement compliance table
2.		Marchese Partners	Finishes Board
The following appendices to the Second Further Revised Preferred Project Report by JBA Planning dated August 2015 (as updated):			

3.	15 December 2015	Australian Bushfire Protection Planners Pty Ltd	Bushfire Protection Assessment
4.	31 March 2015	Anne Clements and Associates	Revised Vegetation Management Plan
5.	30 July 2015	Traffix	Pedestrian Crossing Treatment
6.		Units 628567M Lot 1 653270S Lot 2 656428S Lot 3 656429S Lot 4 656333S	BASIX certificates
7.	18 December 2015	Accessibility Solutions	Access Report
8.	14 December 2015	Traffix	Construction Traffic Management Plan Ref 15.026
9.	18 December 2015	Sebastian Giglio Acoustic Consultant	Rail Noise Assessment Ref 204218C/D04
10.	December 2015	NPC	Stormwater Aspects and Riparian Management Job 2514
11.	December 2015	Tree Wise Men	Arboricultural Assessment Report
12.	15 December 2015	Elephants Foot	Waste Management Plan
13.	26 November 2015	Sydney Trains	Letter to Meg Bartholomew Price Waterhouse Coopers ref 306896
14.	30 June 2015	Douglas Partners	Geotechnical Report

15.	<u>19 August 2016</u>	<u>JBA Planning Consultants</u>	<u>Section 75W Modification Application and Appendices</u>
16.	<u>18 August 2016</u>	<u>ABE Consulting</u>	<u>Accessibility Design Statement – S75W</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
- as otherwise provided by the conditions of this approval.

- (c) Schedule 2 Part C – Prior to Issue of a Construction Certificate - Condition C1B is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

C1B. Development Contributions – Apartment Development

This development is subject to a development contribution calculated in accordance with Ku-ring-gai Contributions Plan 2010, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act, ~~as follows.~~

~~Where a contribution is based on a demand for 64 x 1 bedroom units, 87 x 2 bedroom units and 23 x 3 bedroom units with a credit for 2 x 3+ bedroom dwelling houses based on the September 2015 Quarter.~~

Contribution

~~Recreation/Cultural/Social facilities \$308,328.15~~

~~Parks/Sporting facilities \$2,651,379.19~~

~~New roads/Road modifications \$451,106.87~~

~~Townscape/Transport/Pedestrian Facilities \$1,207,364.50~~

~~Total Contribution: \$ 4,618,178.71~~

The contribution shall be paid to Council prior to the issue of any Construction Certificate for any form of construction including basements, car parks and subfloor areas but excluding any Construction Certificate for demolition and site works only, and/or prior to any Linen Plan, Certificate of Subdivision (except for the linen plan/subdivision certificate for the interim two lot subdivision) or Occupation Certificate whichever comes first in accordance with Ku-ring-gai Contributions Plan 2010.

The contributions ~~specified above~~ are subject to indexation and will continue to be indexed to reflect changes in the consumer price index and housing price index until they are paid in accordance with Ku-ring-gai Contributions Plan 2010 to reflect changes in the consumer price index and housing price index. Prior to payment, please contact Council directly to verify the current payable contributions.

Note: The issue of a construction certificate for any of the physically separate unit buildings comprised in this condition will require payment of the total amount listed above plus any

indexation. No further staging of this condition at time of payment will be permitted. Partial payments of contributions are not accepted.

Copies of Council's Contribution Plans can be viewed at Council Chambers, 818 Pacific Hwy Gordon or on Council's website at www.kmc.nsw.gov.au.

Reason: To ensure the provision, extension or augmentation of the Key Community Infrastructure identified in Ku-ring-gai Contributions Plan 2010 that will, or is likely to be, required as a consequence of the development.

- (d) Schedule 2 Part C – Prior to Issue of a Construction Certificate - Condition C24 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

C24. Design of works in the public road (Roads Act approval)

Prior to issue of the ~~Construction Certificate~~ **Occupation Certificate** for the first residential flat building, the Certifying Authority shall be satisfied that engineering plans and specifications prepared by a qualified consulting engineer have been approved by Council's Director of Operations. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works required in Avon Road:

- The extent of the footpath between the Site and the existing footpath in Avon Road, and any pedestrian refuge or other suitable means of directing pedestrians across Avon Road, as determined by Ku-ring-gai Traffic Committee.

This development consent does not give approval to any works in the road reserve. The Proponent must obtain a separate approval under sections 138 and 139 of The Roads Act 1993 for the works in the road reserve required as part of the development.

The required plans and specifications are to be designed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works.

A survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 - 1996 - Field Guide for Traffic Control at Works on Roads - Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

A minimum of three (3) weeks will be required for Council to assess any Roads Act application. Early submission of the Roads Act application is recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

Note: Construction of the roadworks approved

- (e) Schedule 2 Part E – During Construction - Condition E2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E2. Hours of Work

All demolition and construction work must be restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays (inclusive) and 8.00am to 1.00pm on Saturdays. No work is to be carried out on Sundays or public holidays.

Between 7.30am and 8.30am and 2.30pm and 4pm on weekdays (the peak drop off and pick up hours for attendees at Pymble Ladies' College (School)) during **Pymble Ladies College** School terms:

- a) construction traffic shall be minimised; and
- b) there will be no vehicles larger than 6.4m (Medium Rigid Vehicles) entering or leaving the Site or queuing on Avon Road.

Where it is necessary for the following types of activities to occur outside of the hours specified in this condition approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of any surrounding properties likely to be affected by the proposed works:

- (a) works involving the placement of concrete for large floor areas;
- (b) where building processes require the use of oversized trucks or cranes that are restricted by the RMS from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the Site;
- (c) other works which Council approves for outside of hours.

End of Modification