

Modification of Minister's Approval

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

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the concept approval referred to in Schedule 1, subject to the conditions in Schedule 2.



David McNamara
Director
Key Sites Assessments

Sydney 18 July 2019

SCHEDULE 1

Concept Approval:	MP 09_0191 granted by the Planning Assessment Commission on 19 March 2012
For the following:	Authorise the use of the existing building for retail and business premises and expand the Marrickville Metro Shopping Centre including a first-floor addition to the existing building at 34 Victoria Road, a new 2 level retail building on at 13-55 Edinburgh Road and two levels of rooftop parking above each building.
Proponent:	AMP Capital Investors
Approval Authority:	Minister for Planning and Public Spaces
Land:	34 Victoria Road and 13-55 Edinburgh Road, Marrickville (Lot 100 DP 715231 and Lot 1 DP 612551)
Modification:	MP 09_0191 MOD 7: the modification includes: <ul style="list-style-type: none">• Amendment of Conditions B6 and B7 to allow the building security deposit and public domain works bond to be refunded to the Proponent between development Stages 1A, 1B and 2• Amendment of Condition D1 to allow Council to approve temporary out of hours construction works.

SCHEDULE 2

The Concept approval (MP 09_0191) is modified as follows:

- (a) In Part B, Condition B6 of Schedule 2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

- B6 Payment to Council of **\$86,700.00** prior to the issue of the Construction Certificate for Stage 1A as a Building Security Deposit (B.S.D.) to provide security against damage to Council's infrastructure. The B.S.D. may be held by Council until all construction of Stage 1A under this approval has been completed and Council may utilise part or all of the B.S.D. to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

The Council shall refund the B.S.D. payment to the Proponent following completion of Stage 1A. Payment shall be made again to Council prior to issue of a Construction Certificate for the road works for Stage 1B and prior to issue of a Construction Certificate for Stage 2. The B.S.D payment shall be refunded following completion of each of these individual stages. Works shall not commence if a B.S.D has not been paid.

Prior to the refund of the B.S.D, the Council shall confirm that there is no damage to existing Council's infrastructure. In circumstances where there is damage to Council infrastructure, Council shall have the ability to draw on the B.S.D. to rectify any damage, if it is not rectified by the Proponent in a reasonable timeframe to be agreed between the parties.

- (b) In Part B, Condition B7 of Schedule 2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

- B7 Payment of a Bond, in the sum of **\$380,000.00** for the proper performance of road, drainage, traffic management and public utility adjustment works (public domain works) prior to the issue of the Construction Certificate for Stage 1B **and refunded following completion of Stage 1B. Payment of the same sum is required prior to issue of a Construction Certificate for Stage 2 and refunded following completion of those works. Stage 2 works shall not commence if a Bond has not been paid.**

The security may be provided in one of the following methods:

- (a) in full in the form of a cash bond supported by a legal agreement prepared by Council's Solicitors at the proponent's expense; or
- (b) by provision of a Bank Guarantee by an Australian Bank in the following terms:
 - (i) the bank must unconditionally pay the guaranteed sum to the Council if the Council so demands in writing.
 - (ii) the bank must pay the guaranteed sum within seven (7) days of demand without reference to the proponent or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to consent or the carrying out of development in accordance with the consent;
 - (iii) the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when the Council notifies the bank in writing that the guarantee is no longer required.

Prior to the Bond being refunded at the end of Stage 1B and Stage 2, Council shall confirm that there is no damage to existing Council infrastructure. In circumstances where there is damage to existing public infrastructure, Council

shall have the ability to draw on the Bond to rectify any damage, if is not rectified by the Proponent in a reasonable timeframe to be agreed between the parties.

- (c) In Part D, Condition D1 of Schedule 2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words/numbers as follows:

- D1 All demolition, construction and associated work necessary for the carrying out of the development is restricted to:
- (i) between the hours of 7.00 am to 5.30 pm Mondays to Fridays and 8:00am to 1:00pm, Saturdays for works on the Victoria Road site; and
 - (ii) between the hours of 7.00 am to 5.30 pm Mondays to Saturdays, for works on the Edinburgh Road site.

Notwithstanding the above, no work is to be carried out on any Sunday, Public Holiday or any Saturday that falls adjacent to a Public Holiday

All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, only having access to the site during the hours referred to in this condition. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer being responsible to ensure that all contractors associated with the development are fully aware of these requirements.

Extended construction hours may be applied for with Council. The requested extended construction hours may only take place Monday to Friday and excludes any Public Holidays which fall on a week day. The requested extended construction hours must relate to one of the following works:

- **pouring large floor or roof slabs, or other concrete pours**
- **having heavy equipment such as cranes delivered or removed**
- **works for infrastructure/utilities (such as Sydney Water, assets and electrical/gas utilities) that run under the road or footpath**
- **pedestrian bridge construction**
- **roadwork construction.**

An application for extended construction hours must be made to Council a minimum of 72 hours prior to commencement. Within this application to Council the Proponent must demonstrate, to Council's satisfaction that affected neighbours, including those in the immediate vicinity, adjacent or adjoining the development site have been notified by way of written advice. This written advice must include the following details:

- **date/s the extended hours will be utilised**
- **the purpose of the extended hours – for example pouring a large slab**
- **address of the development works / site**
- **contact name and number of appropriate site officer (supervisor or manager), who will be on-site overseeing the works taking place during the extended hours, for enquiries or complaints.**

The applicant must provide Council with a copy of the letter and a map or list identifying those affected neighbours who have been notified. Residents will not be required to be re-notified again when the -out-of-hours work permit is granted.

At the time of the application, the Proponent must also provide to Council a complaints handling procedure which outlines the steps to be taken to ensure that any concerns or complaints are logged and responded to and that effective measures are taken to minimise impacts to surrounding properties during out of hours works.

END OF MODIFICATION TO MP09_0191 MOD 7