

2 August 2012



**MERITON**  
MERITON PROPERTY SERVICES  
PTY LIMITED

Mr B Lusher  
Department of Planning and Infrastructure  
23-33 Bridge Street  
SYDNEY NSW 2000

**HEAD OFFICE**  
Level 11, 528 Kent Street  
Sydney NSW 2000  
Tel: (02) 9287 2888  
Fax: (02) 9287 2653

Dear Mr Lusher

**Re: 12-40 Bonar Street & 5 Loftus Street Arncliffe  
MP09\_0148 MOD 7**

I refer to the above modification and correspondence from Rockdale City Council and NSW Transport (RailCorp) in relation to amending Condition B4(c) and provide the following additional information.

Condition B4(c) requires the undergrounding of conduit to accommodate the future undergrounding of RailCorp overhead wires along the Bonar Street frontage of our site and the northern side of Hirst Street. We have constructed streetscape works and provided underground conduits along the northern side of Hirst Street in accordance with the condition. Along the Bonar Street frontage, streetscape works have taken place without the conduits being placed underground.

The undergrounding of conduits along Bonar Street has not taken place at this point in time for a very good reason. Rockdale Council confirmed to us by email correspondence back in early 2011 that they will reconstruct Bonar Street at some time in the future so the road can be placed above the 1 in 100 year flood level. Council stated that they are *"prepared to negotiate an alternative arrangement.....to defer the installation of the RailCorp conduits to coincide with the reconstruction of Bonar Street at a later date"* (refer to email correspondence attached to Annexure 1).

By email correspondence, Council made an offer for us to submit a formal letter with a bank guarantee and a quantity surveyor report so when Bonar Street is reconstructed by Council, the conduits could be placed underground at that time. As we received this email nearly a year and a half ago, it was reasonable to assume that Council was happy to accept the bank guarantee. As such, we went along with our business of finishing streetscape works along Bonar Street without the conduits, knowing that the road and conduits had to be raised above the flood level in the future by Council. It would be unreasonable to expect us to now place the conduits underground when all streetscapes works have been completed along Bonar Street, only to be ripped up in the near future.

Why would Council want us to install the conduits at our cost now and then be replaced at a later date, which would be at the rate payers' expense. If we provide Council with a bank guarantee now, then Council can draw upon these funds when needed to place the conduits at the correct position at the time Bonar Street is reconstructed at a higher level than it is today.

Also, Condition B2 states that an amount of \$477,617 be made payable to Council in the form of Section 94 Contribution for the undergrounding of the power lines. The amount is to be paid back to the proponent in 5 years if the undergrounding of the power lines has not taken place by Council. The condition further states that the amount payable to the Council is to be adjusted for inflation. However if the funds are returned to us in 5 years' time, there is no adjustment to inflation. Say the indexation is at 2.5% per annum, then the amount of funds we have lost from inflation is \$62,760. Council will have

placed the original \$477,617 in an account that generates above the inflation rate, so that after 5 years (if the funds are returned to us), they will keep the interest earned, which is not rightly theirs. Meriton is losing the investment interest and inflationary effects over 5 years if the funds do get returned to us. Why is it acceptable for Council to charge developers an indexation amount for Section 94 funds, but if Council have to pay back the amount, there is no indexation involved? As such we seek Condition B2 be amended in bold as shown below.

**"B2 Infrastructure Contributions**

- ***Undergrounding the existing State Rail 33kV power lines in Bonar Street and Hirst Street (\$477,617). If the money is not used for this purpose within 5 years it is to be returned to the Proponent. The amount to be returned is to be adjusted at the indexed rate of the CPI the time of payment in accordance with the Australian Bureau of Statistics indexation."***

With regard to the RailCorp letter, 3 issues are raised. Firstly, RailCorp are prepared to consider a request to underground the overhead wiring provided all costs are met by Meriton. This is the same comment made back in November 2009, when RailCorp considered the Environmental Assessment Report and plans (refer to Annexure 2). Following the Preferred Project Report and external advice from a consultant on the Section 94 Contributions for the Department of Planning, the Planning and Assessment Commission decided to impose Condition B2 that stated Meriton to pay for the undergrounding of the RailCorp power lines. The imposition of Condition B2 therefore agrees with the RailCorp letter dated the 13 April 2012 and 19 November 2009 for the developer to pay for the undergrounding of the wires.

The second part of RailCorp's letter dated the 13 April 2012 objects to the funding of only the conduits being placed underground and not the undergrounding of the wires. As mentioned above, Meriton has paid for the undergrounding of the power lines, and the proposal for a bank guarantee will cover for the conduits, so all funding for the complete undergrounding is covered. Our proposal for the bank guarantee and our Section 94 payment therefore satisfies RailCorps concerns.

Thirdly, RailCorp object to the expiration of available funds. In this regard, the Major Project Approval always had an expiry date to fund the undergrounding of the power lines pursuant to Condition B2 of the consent. With regard to the expiration of the bank guarantee, this has been sought to coincide when section 94 funds are returned should the undergrounding of power lines not take place in accordance with Condition B2. Rather than placing an expiry date to the bank guarantee, the condition can be reworded to state that the bank guarantee be returned should the undergrounding of wires not take place within 5 years of the consent to be consistent with condition B2 (see amended condition below).

I also note that in the original request to modify Condition B4(c), we crossed out "*Prior to streetscaping the proponent shall provide conduits within the footpath / nature strip along the entire Bonar Street and Hirst Street frontages of the site suitable to accommodate the future undergrounding of the power lines*". The original reason for deleting this part of the condition is that along Hirst Street, we have already placed the conduits underground and undertaken the streetscape works. Along Bonar Street we have completed the streetscape works, but have not placed the conduits underground because of Council's email correspondence. Therefore, we seek to have Condition B4(c) amended as follows.

- (c) *The proponent shall design and construct the streetscaping of the Hirst Street (northern side only) and Loftus Street (eastern side only) frontages of the site, including all paving, footpaths, tree planting, landscaping, lighting, and street furniture and the undergrounding of electricity and other service (excluding railcorp power lines), in accordance with the requirements of DCP 80 and the Wollie Creek Streetscape Design Manual (or any design manual that supersedes this manual), to the satisfaction of Council's Manager – Technical Services. Prior to streetscaping the proponent shall provide conduits within the footpath / nature strip along the entire ~~Bonar Street~~ and Hirst Street frontages **frontage** of the site suitable to accommodate the future undergrounding of the power lines.*

***The proponent shall provide a Bank Guarantee in favour of Rockdale City Council to the value of \$40,604.00 to cover costs for Council to install conduits along Bonar Street should the installation of electrical ducts for undergrounding of Rail Corp cables be undertaken. Should the undergrounding of the conduits not take place by Council, then the Bank Guarantee is to be returned in full to the proponent 5 years from the date of consent, being consistent with Condition B2.***

This is a repeating pattern with all Council's that once there is a major development proposed, there seems to be an idea that proponents must be financial charged for doing works that are not related to development. In this case, the overhead power lines have no direct nexus to our development. There is no additional demand generated for the power lines to be placed underground, and is not an essential service such as a library, child care centre or open space that are typical of S94 Contributions. The placement of the power lines underground would not take place if the site remained undeveloped and is only for beautification of the street. In this regard, this is ample evidence to have that part of Condition B2 seeking \$477,614 to be deleted in its entirety should this be seen fit by the Planning and Assessment Commission.

Yours faithfully  
**MERITON GROUP**



**WALTER GORDON**  
**Manager Planning and Development**

**ANNEXURE 1**

## Tom Hutchison

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**From:** JMilner@rockdale.nsw.gov.au  
**Sent:** Thursday, 14 April 2011 9:29 AM  
**To:** Andrew Coleman  
**Cc:** CMable@rockdale.nsw.gov.au  
**Subject:** 12-40 BONAR STREET, ARNCLIFFE - 33kVa Railcorp conduit installation

Andrew,

I refer to your email dated 8 April 2011 regarding the installation of conduits in Bonar Street for the Railcorp 33kVa supply cables.

Council has considered your email and I can respond that Council is willing to consider the submission of a bond to Council for the installation of the conduits in Bonar Street.

In order to progress this, given that works are nearing completion and I understand the time constraints involved with finalising the streetscape works that Meritons are required to undertake, a formal letter of offer should be made to Council, detailing the financial arrangements that are proposed, and accompanied by a QS report of the cost of installation of conduits in Bonar Street.

The bond should only be for the cost of conduit installation in Bonar Street as Council sees no reason why the conduit installation cannot be carried out in Hirst Street. Such installation will need to be within the Railcorp allocation discussed in principle at the on-site meeting on 1 April, or as otherwise directed by Railcorp, so that the Ausgrid allocation can be maintained in accordance with Ausgrid Network Standards. The Ausgrid and Railcorp requirements for their conduit allocations obviously prevail over Council's S138 approval, which was issued prior to the confirmation of the conduit allocations.

If you have any enquiries please do not hesitate to contact me using the details below.

Regards

Jamie

Jamie Milner  
Development Engineer  
Rockdale Council  
T: 02 9562 1744  
F: 02 9562 1777  
E: [JMilner@rockdale.nsw.gov.au](mailto:JMilner@rockdale.nsw.gov.au)

## Tom Hutchison

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**From:** CMable@rockdale.nsw.gov.au  
**Sent:** Wednesday, 20 April 2011 8:40 AM  
**To:** Andrew Coleman  
**Cc:** JMiiner@rockdale.nsw.gov.au  
**Subject:** Re: 12-40 BONAR STREET, ARNCLIFFE - railcorp conduits

Andrew,

I refer to your email dated 19 April seeking Council approval for the installation of conduits for Ausgrid and Rail Corp Conduits in Hirst Street and Bonar Street.

Please be advised that Council will approve the proposed conduit alignments as shown on plans O8P395 - C320 ( Hirst Street ) and C323 ( Bonar Street ) and grants approval to proceed with these installations.

With regard to the Bonar Street Frontage Council will require the Ausgrid conduits to be laid however it is prepared to negotiate an alternate arrangement with Meritons to defer the installation of the Rail Corp conduits to coincide with the reconstruction of Bonar Street at a later date by Council.

If you have any questions with the above please contact me.

Regards

Colin Mable  
Executive Engineer  
Technical Services  
Phone 9562 1647  
Fax 9562 1777

## Tom Hutchison

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**From:** Andrew Coleman <andrewc@meriton.com.au>  
**Sent:** Tuesday, 3 May 2011 4:03 PM  
**To:** CMable@rockdale.nsw.gov.au  
**Cc:** jmilner@rockdale.nsw.gov.au  
**Subject:** 12-40 BONAR STREET, ARNCLIFFE - railcorp conduits  
**Attachments:** 105714railorploftus.pdf

**Importance:** High

Colin

### **12-40 BONAR STREET, ARNCLIFFE - railcorp conduits**

We refer to your request to bond the proposed Railcorp conduit works along our Bonar Street site frontage.

The cost of these works has been calculated at \$53,625 (refer to attached RPS quantity surveyor report).

Whilst, we are ready to install these conduits now in accordance with condition B4(c) we acknowledge that Council has requested that these works be suspended.

We understand that the future re-design Bonar Street would require Council's contractors to undertake the future relocation of the proposed Railcorp conduits.

Therefore, we propose to provide Council with a \$35,000 bank guarantee (expiry march 2015) to cover the cost of Council's future installation of the proposed conduits.

Note 1: The proposed BG expiry of March 2015 is to be in accordance with the potential refunding of our contribution that was provided to Council for condition B2.

Note 2: The proposed BG amount of \$35,000 has been calculated using today's scope of work costing less the bank fees and interest charges applied over next 4 years till BG expiry.

We await your advice/instruction.

regards,

### **MERITON APARTMENTS P/L**

Andrew Coleman  
Senior Project Manager

Meriton Tower  
Level 11,  
528 Kent Street, Sydney N.S.W 2000

Ph: (02) 9287 2590 direct \* Ph (02) 9287 2888 main \* Fx: (02) 9287 2790

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# Railcorp Conduits

Job Name : PR105714LOFTUSARNCLE

Job Description

Client's Name: Meriton Apartments

Railcorp conduits

| Item No.  | Item Description   | Quantity | Unit | Rate     | Mark Up % | Amount           |                  |
|---|--|----------|------|----------|-----------|------------------|------------------|
| <i>Trade : 2 Conduits for Railcorp Power - Bonar Street</i> |  |          |      |          |           |                  |                  |
| 1   | Install four 200 dia conduits including excavation, backfill with excavated material, concrete danger slab and orange warning tape | 150.00   | m    | 325.00   |           | 48,750.00        |                  |
| 2   | GST  | 1.00     | Item | 4,875.00 |           | 4,875.00         |                  |
| 3   | GST Inclusive Total  |          |      |          |           | <u>53,625.00</u> |                  |
| <u>Conduits for Railcorp Power - Bonar Street</u>           |  |          |      |          |           | <b>Total :</b>   | <b>53,625.00</b> |



## **ANNEXURE 2**



# RailCorp

**RailCorp Property**  
PO Box K349  
Haymarket NSW 1238  
Tel: (02) 8922 4062 Fax: (02) 8922 4817  
Email: [alice.pottini@railcorp.nsw.gov.au](mailto:alice.pottini@railcorp.nsw.gov.au)

19 November 2009

The General Manager  
Department of Planning  
GPO Box 39  
Sydney NSW 2001

**ATTENTION: Pilar Aberasturi**

Dear Madam,

**DEVELOPMENT APPLICATION – MP 09\_0148  
12-40 Bonar Street and 5 Loftus Street, Arncliffe**

I refer to Department's letter dated 19 October 2009 regarding the proposed development at the above address.

Rail Corporation New South Wales (RailCorp) has reviewed the proposal and notes that according to Rockdale Council's DCP No.80 Pat 7 7.2(a), all services are to be provided underground. At present, RailCorp will be prepared to consider further any request to underground its overhead wiring, provided all costs in the process of any investigation and any agreed resultant works are met by the developer.

The development otherwise is not located in close proximity to the rail corridor and is not envisaged to have any other effect on RailCorp.

Finally, it is asked that your Department forward to RailCorp a copy of the final development consent to enable RailCorp to monitor the Applicant's compliance with rail related conditions of consent.

Thank you for providing RailCorp the opportunity to comment and please contact me if you have any further enquires.

Yours faithfully,

Alice Pettini  
Assistant Town Planner  
RailCorp Property

13 April 2012

The General Manager  
Department of Planning  
GPO Box 39  
Sydney NSW 2001

**ATTENTION: Amy Watson**

Dear Madam,

**DEVELOPMENT APPLICATION – MP 09\_0148 MOD 7**  
**12-40 Bonar Street and 5 Loftus Street, Arncliffe**

I refer to your Department's letter regarding the above matter.


RailCorp raises its objection to the proposed amendment to Condition B4(c). RailCorp provided comments on the original proposal and advised that "...RailCorp will be prepared to consider further any request to underground its overhead wiring, provided all costs in the process of any investigation and any agreed resultant works are met by the developer".

The proposed modification only facilitates the installation of conduits only and does not cover the entire cost of the undergrounding of RailCorp's overhead wiring. Further, the modification includes a time limit which will see the expiration of the availability of funds which is not acceptable.

RailCorp therefore requests that this modification not be approved.

Should you wish to contact the writer at any time during normal working hours please call on 8922 1987.

Yours sincerely,

  
Jim Tsirimiagos  
Manager, Land Use & Planning  
RailCorp Property