

Tija Stagni, Strategic Planner - Land Release
8am to 5.30pm Mondays to Thursday, 8am to 5pm Fridays

26 July 2013

Mrs K Jones
Director, Metropolitan & Regional Projects South
Department of Planning & Infrastructure
GPO Box 39
Sydney NSW 2001

(Your Ref: MP09_0162 MOD 4 & MP10_0177 MOD 13)

Dear Mrs Jones

**COUNCIL RESPONSE TO PREFERRED PROJECT REPORT
MP09_0162 MOD 4 AND MP10_0177 MOD 13**

I refer to correspondence from the Department inviting Council to provide comments to Meriton's Preferred Project Report for MP09_0162 MOD 4 & MP10_0177 MOD 13.

Council's detailed response to the Preferred Project Report is attached for your consideration.

Please contact me on 9970 1133 or Tija Stagni on 9970 1318 if you wish to discuss any issues regarding this application.

Yours faithfully

Steve Evans
DIRECTOR, ENVIRONMENT PLANNING & COMMUNITY

A large, stylized graphic of a leaf or plant branch in shades of green and yellow, positioned in the upper left corner of the page.

Submission to Department of Planning &
Infrastructure on Preferred Project Report
MP 09_0162 MOD 4 and
MP10_0177 MOD 13

Prepared by Pittwater Council 26 July 2013



PITTWATER COUNCIL

EXECUTIVE SUMMARY

This Preferred Project Report, like the original modification applications, is lodged with insufficient information and does not disclose the full range of amendments now sought, as depicted on the amended plans submitted.

The proponent appears to have ignored the issues raised in Council's original submission to the two modification applications MP09_0162 MOD 4 & MP10_0177 MOD 13. Despite the additional information supplied by the proponent, a number of significant issues remain unaddressed. Issues that have not been addressed by the proponent in their Preferred Project Report were discussed in detail in our previous submission dated 17 May 2013 have not been replicated in this response.

Rather than modifying the approved subdivision plan as previously proposed, the proponent as stated in its Preferred Project Report now seeks to create an easement over part of the land required to be dedicated to Council for passive open space. This portion of the land required to be dedicated and now proposed to be built over will have no public benefit, and certainly cannot be utilised for public recreation and open space. Council insists that if the proponent seeks to utilise part of the overland flow path for its own commercial operations, the PAC must ensure that the proponent take ownership of this land.

The entire overland flow path, including the portion to be built over by the proponent, is required to be dedicated to Council for public open space as part of Stage 2 of the overall development. Council's original submission questioned the utility of the entire overland flow path land for public open space, given its severe flood affectation and linear shape. Council restates that this modification application provides an opportunity for the PAC to revisit the suitability of the land required to be dedicated in terms of the recreational needs of the Warriewood Valley Community.

Council reiterates that from a flood planning perspective, the additional number of children that this larger facility is intended to cater for, represent additional lives at risk to injury, psychological impacts or at the most extreme, death, due to flood risks associated with flood isolation, difficult flood evacuations, fire and medical emergencies during a flood event. The Preferred Project Report does not in any way address risk to life as a result of the operations of the childcare centre and does not

provide any justification as to why such an increased risk to life should be accepted. This modification application significantly and unreasonably increases risk to life and cannot be supported.

Finally, Council again emphasises that it is imperative that the Planning Assessment Commission consider and determine the building and its use as a childcare centre together rather than imposing on Council the consent authority role for any future DA for the childcare centre use.

DESCRIPTION OF PREFERRED PROJECT REPORT

The proponent apparently ignored Council's submission to the modification application dated 17 May 2013 and has provided no comments to the issues raised. Several significant issues remain outstanding and unaddressed. Council recognises that the applicant has provided the following additional information as part of their Preferred Project Report (MP09_0162 Mod 4 & MP10_0177 Mod 13):

1. Acoustic assessment and recommended mitigation measures
2. Addendum to original Traffic and Carparking Report
3. Flood assessment of proposed suspended carparking slab
4. Bushfire Report including proposed asset protection zones and construction requirements
5. Amended childcare centre and carparking plans and architect's certification of proposed two storey childcare centre

OUTSTANDING ISSUES

1. Implications of a private structure over land required to be dedicated to Council

a) Inconsistencies in proponent's modification application and Preferred Project Report

The proponent's original modification application was accompanied by an amended subdivision plan which proposed to create Lots 601 and 602. Lot 601 (2218sqm) was intended to contain the proponent's childcare centre building and Lot 602 (7573sqm) was intended to contain the land to be dedicated to Council as passive open space which included the southern portion of the overland flow path.

The proponent's Preferred Project Report now states inter alia that, "it is proposed to create a stratum/easement over that part of the land that will be under the carpark structure".

It is unclear how the proponent intends to give effect to its modification request as no 88B Instrument has been provided consistent with its most recent proposal.

b) Utility of land to be dedicated

The land containing the overland flow path is required to be dedicated to Council for public benefit. Any public benefit is completely diminished by the proposed modifications that will result in a private carpark being located over the land supposedly dedicated to Council. Council asserts that the portion of the overland flow path, proposed to be built over (shaded green in Map 1), has no public benefit, and certainly cannot be utilised for public recreation and open space, being the purported purpose that this land is to be dedicated to Council.

Council will not be held responsible in the future for the maintenance of the overland flow path if there is to be a private structure built over it. Council contends that the building of a commercial structure over this land obviates the requirement for this land to be dedicated to Council for the purpose of public recreation and open space and that the Section 94 amount attributable to this area be adjusted.

c) Implications for works-in-kind items and cash contribution required as part of Stage 2 of the overall development

Council's original submission questioned the recreational utility of the overland flow path, part of which is now proposed to be built over, for public open space given its severe flood affectation and linear shape. Council reiterates that irrespective of whether or not the PAC agrees to the private use of part of the overland flow path for the proponents carparking structure, the whole of the overall dedication of land as open space must be revisited as to its suitability for usable public open space as well as what is being required to be paid for this land and the offset in the amount of cash contribution being allowed. These issues have been discussed in detail in our original submission dated 17 May 2013.

Council reiterates that the full length of the overland flowpath (an area of 2260sqm, shaded green and blue in MAP 1) must be kept as a flood way and a suitable instrument be created to cover that use and its ongoing provision/maintenance by the developer/owner. Council insists this area must not be dedicated to Council and a cash adjustment be made to the payable cash contribution.

If the PAC is of the mind to approve the applications, Council asserts that as a minimum, that PAC amends the following:-

- The full length of the overland flowpath (shaded green and blue in MAP 1) must be kept as a flood way and a suitable instrument to covers that use and its ongoing provision/maintenance by the developer/owner.
- Relevant conditions in the Concept Approval and Project Approval regarding the Statement of Commitments and land dedication be amended in the following manner:
 - the amount of land dedicated for active and passive open space on-site (8,920sqm) be revised to 6,660sqm (being the amount less the land containing the overland flow path as shown green and blue in MAP 1); and
 - the cash contribution payable be recalculated (based on a rate of \$325/sqm, being the rate used by the PAC in attributing a value to this land in their original approval MP09_0162).

MAP 1 – LOCATION OF OVERLAND FLOW PATH



Aerial Photography - May 2012

**Proposed Child Care Centre
Overland Flow Paths - Map 1**

NORTH
A4 Scale 1:1000

2. Issues arising from the suspended carparking structure

a) Reduction in deep soil planting area

This issue has been raised in Council's original submission to the modification applications and has not been addressed by the proponent in the Preferred Project Report and remains unresolved.

b) Traffic and congestion within the site due to carpark design

It is acknowledged that the applicant has provided an addendum to the original GTA Consultant's Traffic Report and an amended carparking plan.

Consistent with the recommendations of the addendum, the carparking plan needs to be amended to allocate ten carparking spaces, located furthest from the centre, to staff, and eleven drop-off/collection spaces to visitors.

Council does not support the consultant's comments within the addendum regarding the carpark layout particularly comments regarding potential conflicts between vehicles entering and exiting the carpark area, and between the internal parking aisle and the driveway. Council recommends that to improve safety and eliminate conflict, a kerb return should be provided on the inside of the turn to facilitate the turning manoeuvre which would require the removal of parking space S15. It is important that a practical and safe car parking configuration is not sacrificed in order to accommodate maximum number of car parking spaces.

Further, the proposed aisle width, being 6.395m, does not comply with the requirements of AS2890 for Class 3A users where the parking space width is 2.6m. This aisle width should be increased to 6.6m. Alternatively, an aisle width of 6.2m would be acceptable if the eleven parking spaces assigned to the drop off/collection of children are increased in width to 2.7m to comply with AS2890.

In order to minimise congestion and conflicts on the private site access road (off Macpherson Street), between traffic accessing the childcare centre parking area and traffic accessing the residential basement carparking areas, it is recommended that 'No Stopping' restrictions are required along the private site access road.

c) Visual implications of carparking structure

The suspended carparking area is shown to be generally at the same level as Macpherson Street, and together with the childcare centre building, will become a dominant feature in the streetscape.

Presumably to screen the built form, a steel palisade fence is now proposed varying in height from 1.8 metres to 1.2 metres, extending from the north west corner of the site to the north west corner of the childcare centre building (along the Macpherson Street boundary), extending south along the western edge of the childcare centre building and around the ground floor outdoor plays area.

From the street this fence will present as a visually hard built element that cannot be softened. It is questionable what effect landscaping along the inside of the fence will have on the appearance of the built form from Macpherson Street.

3. Issues related to the intensified use of the childcare centre

a) Streetscape and visual impacts of childcare centre building

This issue has been raised in Council's original submission to the modification applications and has not been addressed by the proponent in the Preferred Project Report and remains unresolved.

b) Residential amenity for residents within and surrounding the site

Council's original submission raised concern in regard to the acoustic impact of the intensified use of the childcare centre. An acoustic report prepared by Acoustic Logic, has now been submitted with the Preferred Project Report detailing the noise impacts of the proposed

childcare centre upon neighbouring properties. The proponent now recognises that an acoustically treated fence may now need to be provided along the western boundary of the site and may be imposed via condition.

This fence would be located along the boundary of Sector 11 which is already developed and occupied. No details have been provided by the proponent or the proponent's acoustic consultant on the particulars of this acoustically treated fence.

If the PAC is of the mind to impose a condition for an acoustically treated fence to ameliorate noise impacts created by the intensification of the childcare centre, Council contends that all adjoining neighbours be notified and given the opportunity to provide comments. Detailed elevations and shadow diagrams should be provided as part of the notification package detailing the full extent of the fence.

c) Increased risk to life

Council in its original submission raised significant concerns over the increased risk to life due to the intensification of the childcare centre.

The Preferred Project Report and Brown Consulting letter does not assess the suitability of the site on flood impacts to life as a result of the intensification of the childcare centre. The focus of the documents confirms that the building is to be located above the PMF flood level and is to be used as an area for refuge. However, there is no attempt to address the greater issues of risk to life as a result of the operations of the childcare centre itself in event of a flood, and relegates such issues to the future implementation of a Flood Emergency Response Plan as part of the operation of the child care centre.

Additional children at the facility represent additional vulnerable persons exposed to associated risks from flood isolation such as medical emergencies and fire, and risks from lack of availability to evacuate during a flood event. Additional numbers of parents and guardians would also be expected to increase, and those seeking to

access the childcare centre during a flood event would be exposed to significant risks to life and vehicle damage. These issues have not been addressed by the Preferred Project Report and Brown Consulting letter.

As further detailed in Council's original submission, the proposed childcare centre cannot be supported as it unreasonably increases risk to life. Council strenuously objects to the proposed modifications and requests that the PAC not support the applications.

Council reasserts that it is imperative that the Planning Assessment Commission consider and determine the building and its use as a childcare centre together rather than imposing Council to be the consent authority for any future DA for the childcare centre use.