



Liza Cordoba, Principal Officer Urban Land Release
8am to 5:30pm Monday-Thursday
8am to 5pm Friday

11 July 2011

MICHAEL WOODLAND
DIRECTOR, METROPOLITAN & REGIONAL PROJECTS SOUTH
DEPARTMENT OF PLANNING & INFRASTRUCTURE
GPO BOX 39
SYDNEY NSW 2001

(Your ref: MP10_0177 MOD 2)

Dear Mr Woodland

**RE: APPLICATION FOR MODIFICATION OF MAJOR PROJECT APPROVAL UNDER
SECTION 75W
14-18 BOONDAH ROAD WARRIEWOOD**

Please find enclosed Pittwater Council's submission to the Application for Modification of the Project Approval (MP10_0177 MOD 2) at 14-18 Boondah Road, Warriewood.

If we can be of any assistance please don't hesitate to call Liza Cordoba (Principal Officer Land Release) on (02) 9970 1150 or myself on (02) 9970 1134.

Yours sincerely

Steve Evans

DIRECTOR – ENVIRONMENTAL PLANNING & COMMUNITY

Meriton seeks to legitimise construction already carried out on the site following approval of plans by the Director-General on 23 March 2011 since revoked. It is noted that construction on site has not stopped and in particular the works the subject of this Modification Application (that is to construct a basement parking structure that permits a permanent pumping system, operating intermittently, to be installed and maintained in order to ensure that the basement is free of excess stormwater, and known as "MOD 2") are underway. Consideration of MOD 2 by the Department of Planning and Infrastructure (the "Department") and its recommendation to the Planning Assessment Commission ("the PAC") must be independent of this fact and any potential legal action threatened by Meriton.

It should be noted that Pittwater Council is challenging the concept and project approvals granted by the Minister (by his delegate, the PAC) for residential development on 14-18 Boondah Road, Warriewood under Part 3A of the *Environmental Planning and Assessment Act 1979*. The Council's challenge to the validity of the Concept Approval (MP09_0162) and the Project Approval (MP10_0177) granted in January 2011 (the "Approvals") has not been determined by the Court. The Council's submissions regarding the plans recently approved by the Director-General (on 6 June 2011) and the first Modification Application (MP10_0177 MOD 1, lodged 26 May 2011 and known as "MOD 1") are also before the Court as part of the current proceedings.

The Modification Application MP10_0177 MOD 2 (known as "MOD 2") relies on the first Modification Application in regard to the basement carpark. Pittwater Council is of the opinion that the MOD 1 is also invalid and therefore this submission on the merits of the Modification Application is presented on a 'Without Prejudice' basis.

As for MOD 1, Pittwater Council requests that MOD 1 not be determined by the Minister or his Delegate until such time as the Land and Environment Court has handed down its judgement.

Council contends that the purported approval of amended plans by the Director-General (on 6 June 2011) is invalid as the purported approval is for 5 storey elements expressly prohibited by the 18 January 2011 Approvals. This matter is critical as MOD 2 seeks to modify plans which the Council considers to be invalid (in that they do not accord with the PAC's original determination).

Notwithstanding the above, Pittwater Council has no objection to MOD 2 subject to NSW Office of Water supporting the proposed modification for the permanent dewatering system being issued and all relevant necessary licences obtained from the NSW Office of Water.