

Liza Cordoba, Principal Officer Land Release
8am to 5.30pm Mondays to Thursdays, 8am to 5pm Fridays
02 9970 1150

13 March 2012

(Your Ref: MP10_0177 MOD 4)

Mr A Bright
Director, Metropolitan & Regional Projects South
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr Bright

**RE: COUNCIL SUBMISSION TO MP10_0177 MOD 4, APPLICATION FOR MODIFICATION
OF MAJOR PROJECT APPROVAL UNDER SECTION 75W**

I refer to your letter of 29 February 2012 advising Council of the amended modification application (MP10_0177 MOD 4) now sought by the applicant and inviting Council to make a submission by 14 March 2012.

Council objects to a number of changes proposed by this amended modification application, particularly:

- (a) The application of credits attributed to roadworks:
- within Pittwater Road (a state road to which no infrastructure improvement was originally identified under the Warriewood Valley Section 94 Contributions Plan and the improvement is necessitated directly by this development),
 - within Macpherson Street, fronting 5 and 7 Macpherson Street and the roundabout servicing both the ARV and this development, and
 - within Boondah Road.
- (b) Any proposal to stage roadworks within Macpherson Street.

Detailed reasons for objection are attached for your consideration.

You can contact me on 9970 1133 or Liza Cordoba, Council's Principal Officer Land Release on 9970 1150 if you wish to discuss any issues regarding this application.

Yours faithfully



Steve Evans
DIRECTOR, ENVIRONMENTAL PLANNING & COMMUNITY



THE MODIFICATION APPLICATION

Council understands that the amended application now seeks the following modifications to the Project Approval:

1. Amend Condition F15 by inserting a new subclause (e) as worded *"The Proponent in undertaking the works at the Pittwater Road and Warriewood Road intersection be financially credited by Pittwater Council (50%) and the Roads and Maritime Services (50%). The funds to be paid to the proponent at the completion of the intersection works."*
2. Amend Condition C6 by:
 - removing the requirement for roadworks to the frontage of 5 and 7 Macpherson Street
 - amending subclause (d)(i) relating to the required roundabout at the intersection of Macpherson Street and the entry to the Anglican Retirement Villages (ARV) to provide for 50% of the cost of works to be credited to the proponent from the Warriewood Valley Section 94 Contribution Plan
 - inserting a new subclause (n) providing for the staging of works in Macpherson Street as follows:
 - works west of 5-7 Macpherson Street prior to the final Occupation Certificate for Stage 1;
 - works east of 5-7 Macpherson Street prior to the final Occupation Certificate for future Stage 2 application
 - inserting a new subclause (o) providing for the cost of the required road works for the frontage of 5-7 Macpherson Street (if undertaken by the proponent) to be credited from Warriewood Valley Section 94 Contributions Plan; and
 - inserting a new subclause (p) providing for all works in Boondah Road to be completed prior to the issue of a final Occupation Certificate for a future Stage 2 application, with any additional cost of raising the level of the road or other flood infrastructure works to be funded by Council from the Warriewood Valley Section 94 Contributions Plan
3. Amend the following conditions to be consistent with the amendments requested to Condition C6:
 - Condition F14 relating to the staging of works within the road reserve and
 - Condition C10 to remove the requirement for street lighting and placement/relocation of services underground for the frontage of 5 and 7 Macpherson Street.
4. Amend Condition C2 to provide for the extent of landscaping to be completed prior to issue of a final Occupation Stage 1



MATTERS RAISED

1. **Works within Pittwater Road (Condition F15)**

Council notes the applicant is not seeking deletion of this condition as originally sought following objections by Council and the Roads and Maritime Services (RMS).

Council reiterates its objection to the seeking of a credit for an infrastructure item that was not required as part of the Warriewood Valley Release Area development and not a listed work item in the current adopted *Warriewood Valley Section 94 Contributions Plan No 15 Amendment No 16* (WWV Section 94 Plan).

The need to lengthen the right turn lane within Pittwater Road is specifically generated by the approved development (MP09_0162 and MP10_0177). This requirement was identified by the applicant's traffic consultant report as a means to mitigate traffic impacts given that the higher density approved for this development will generate traffic volumes greater than what was originally calculated in the Warriewood Valley Roads Master Plan – 2006 Review.

There is no basis to the applicant's argument regarding Council's decision to finance construction of the PCYC and to locate the facility in Narrabeen Reserve. Council's report of 17 October 2011 (known as Annexure 1 to the applicant's request of 28 February 2012) specifically details the nexus of the PCYC facility having greater utility as a multi-purpose community facility with a focus on youth rather than the originally, planned childcare centre and community facility. It would be inequitable to the Warriewood Valley community if the contributions received for its planned community services (now earmarked for building the PCYC) are then redirected to fund the works generated by Meriton's development.

The requirement to construct the right turn lane (via Condition F15) must be adhered to given the traffic generated by this one development and importantly, is the responsibility of the developer (Meriton) to provide. It is now unreasonable for the cost to be imposed on Council and the Roads and Maritime Services (RMS), rather than the developer.

The extension of the right turn bay within Pittwater Road is not part of the WWV Section 94 Plan. There is no fund from which to draw such a credit. To do so will result in an unfunded liability.

Council reiterates that the applicant may wish to take up the issue of co-funding the works directly with the RMS as the turning bay is a required improvement to the RMS' main road infrastructure.

2. **Boondah Road (Condition C6)**

(a) Staging of roadworks

Council confirms it has no objection to the proposed staging of approval and construction of all roads works in Boondah Road as part of the Stage 2, with completion of the road works occurring prior to occupation of Buildings H, I, J, K, L, M, N, O & P subject to the following caveat (as agreed by the applicant by letter to the Department dated 16 January 2012). The wording as agreed is as follows:

"All references to Boondah Road in Condition C6 will also include reference to the balance of proposed roadworks not completed as part of Stage 1 which, while relevant to the overall development, will be deferred until the construction and prior to final occupation of Buildings H, I, J, K, L, M, N, O & P thereby providing access to Stage 2 of the development."

Accordingly, Council request that Condition C6 be amended to include the above wording.

(b) Seek credit for additional cost

Council objects to the proposal for any additional cost incurred with the raising of the road level or other flood infrastructure works being funded from the Warriewood Valley Section 94 Contributions Plan.

The road needs to be constructed to the relevant standard and provide flood free access. The existing Boondah Road pavement was built to a former low traffic volume, rural standard, and its reconstruction therefore must be to contemporary road pavement and access specification standards.

The construction of the Boondah Road as it fronts the development (including road pavement, kerb and gutter, associated stormwater drainage, footpath, utility services, line marking, street lighting, landscaping, etc) and the adjustment of levels to accommodate flood and access requirements as well as the safe transition to existing infrastructure is the responsibility of the proponent to provide. This road construction is not a listed works item in the WWV Section 94 Plan.

3. Macpherson Street (Condition C6)

(a) Construction of roundabout

Council objects to the proposed amendment of condition C6(d)(i). The subject roundabout provides a controlled intersection for the intersecting access points for both developments with Macpherson Street and is a direct result of both developments.

The roundabout at this location was not identified in the original infrastructure requirements for Warriewood Valley and therefore is not a works item in the Warriewood Valley Section 94 Contributions Plan.

This intersection is a totally new intersection specifically benefiting the ARV **and** Meriton developments. Although ARV commenced first, Meriton has an equal or larger share/benefit in this intersection given it is a higher traffic generating development than the aged-care facility and the roundabout is more pertinent to Meriton's development in minimising likely traffic and pedestrian conflicts given the internal loop road connection has been deleted.

Council reiterates that the roundabout at this intersection was generated by the ARV and this development. The responsibility to provide should be shared by both developments.

Condition C6(d)(i) of MP10_0177 as worded should be retained. The condition provides for both developments to share costs towards the construction of the roundabout. Meriton therefore needs to arrange/coordinate with ARV the construction of this roundabout facility and not seek to remove its involvement in the provision of this facility.

(b) Roadworks in front Nos 5 and 7 Macpherson Street

Condition C6(a) requires works to the full length of Macpherson Street (including 5 and 7 Macpherson Street) and Boondah Road frontages of the development site and including

works associated with the intersection access to the development, accounted for as direct provision with the approved development.

The approved development is located in the section of Macpherson Street that contains a bend in the road alignment. Access into Stage 1 of the development is generally off Macpherson Street and vehicles will travel either direction along Macpherson Street to enter and leave this development. Pedestrian movement from this development will also travel either direction of Macpherson Street, particularly towards Pittwater Road to access the direct bus services to the City.

This development has necessitated the roadworks along Macpherson Street between Boondah Road and the intersection to the ARV access road including the bend in Macpherson Street immediately fronting 5 and 7 Macpherson Street.

Equitable provision in this sector however may be achieved through a sector based approach as applied across much of the release area given that 70% or more of the sector's needs have been addressed in terms of masterplanning, infrastructure provision etc, via approval of the Concept Plan and Stage 1 for this site. In terms of site area, the development site accounts for 96.4% of the Buffer Area 3 sector in comparison to the 3.6% share by 5 & 7 Macpherson Street. As the major landowner in this sector, Meriton should provide this infrastructure directly and negotiate with the other party(ies) within the sector regarding a contribution/equitable share of those costs and not attempt to pass that liability on to the WWV Section 94 Plan or the Pittwater community.

This type of improvement to existing roads is infrastructure necessitated by the development and is the responsibility of the developer to provide. It is not a listed works items in the WWV Section 94 Plan, and no monetary contributions have been received for this road improvement. Any proposal to credit works typically provided by direct provision will result in an unfunded liability against the Warriewood Valley Contributions Plan.

Conversely, to delete the requirement to construct the section of Macpherson Street in front of 5 and 7 Macpherson Street would result in adverse traffic and amenity impacts due to:

- the missing section of road 55m in length, is located on a bend in Macpherson Street;
- the missing section of road includes kerb & gutter required for road drainage and to define and support the road edge and provide protection to the adjoining footpath construction, including reduction in kerbside parking; and
- the missing section of pedestrian footpath that would be of benefit to residents of this development and wider community.

The Planning Assessment Commission in its decision to impose condition C6(a) recognized the need for continuity of the roadworks along the frontage of the development site and Nos 5 & 7 Macpherson Street for safety and functional reasons.

Condition C6(a) must be retained.

A credit must not be afforded to the applicant, regarding the roadworks fronting 5 and 7 Macpherson Street as the approved development generated the requirement for roadworks along this section of Macpherson Street including the section fronting 5 and 7 Macpherson Street particularly the configuration of the road fronting Nos 5 and 7.



(c) Staging of works in Macpherson Street

Council objects to any proposed staging of works in Macpherson Street resulting in an unnecessary infrastructure gap that, in turn, is highly detrimental to road and pedestrian safety and amenity, and affects reliability of power and communications supply. Delaying the roadworks within Macpherson Street has an immediate impact on residents of Stage 1 as the discontinuity has an impact on access to bus stops, kerbside parking, resident safety and amenity.

4. Amend Condition F14 and C10 to reflect the staging works proposed for Macpherson Street and Boondah Road

Council objects to amendments sought in regard to the staging of works along Macpherson Street, for the reasons already stated in point 3 above.

5. Staging of Landscaping Works (Condition C2)

Council understands that the developer seeks to complete the landscaping works for Stage 1 prior to the issue of the Final Occupation Certificate being issued for Stage 1 buildings.

Council has no objection to the proposed staging so long as landscaping works in the riparian corridor (being condition C2(b)) and the frontage to 5 & 7 Macpherson Street is completed prior to the Occupation Certificate being issued for Buildings A, B, C, D, E, F or G.