



**Planning &
Infrastructure**

***MODIFICATION REQUEST:
Residential and Childcare Centre
Development***

***14-18 Boondah Road, Warriewood
Proposed by: Meriton Apartments Pty Ltd
(MP 10_0177 MOD 5)***

Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

December 2011

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1. BACKGROUND

1.1 The Site

The subject site, 14-18 Boondah Road, Warriewood, is located in the Warriewood Valley Release Area within the Pittwater Local Government Area (LGA). The site is irregular in shape, has an area of 8.118 hectares and frontages of 293 metres to Boondah Road and 273 metres to Macpherson Street. Vehicular access is available from both road frontages. The land slopes approximately 2.5 metres to the rear (south) towards the wetlands.

The site locality and site boundary is illustrated in **Figure 1**.

Figure 1: The Site



The site is currently being developed in accordance with the approved Stage 1 Project Approval (MP 10_0177).

1.2 Previous Approvals

Concept Plan Approval - MP 09_0162 and Stage 1 Project Approval - MP 10_0177

On 18 January 2011, the Planning Assessment Commission (PAC) approved a Concept Plan (MP 09_0162) for a multi-unit housing development and childcare centre, private and public open space, parking, road works, pedestrian and cycle pathway, landscaping and ecological rehabilitation works.

The PAC also issued Stage 1 Project Approval (MP 10_0177) for a development comprising:

- demolition of the existing buildings and structures on site and tree removal;
- excavation, earthworks and flood mitigation works;
- construction of 7 residential buildings apartments with associated pools and gymnasium;
- childcare centre;
- external road works, internal public access roads, pedestrian and cycle way; and
- ecological rehabilitation and landscaping works.

1.3 Previous Modifications

On 15 July 2011, the PAC approved a modification application (MP 10_0177 MOD 1) in relation to the Stage 1 Project Approval which included the deletion of the second basement level, provision of a total of 474 spaces within a single level basement and the inclusion of Condition C21, which relates to CPTED measures within the basement car park.

Pittwater Council (Council) raised concern about CPTED issues relating to the amended basement car park including that the car park incorporated a number of dead ends and blind corners upon which serviceable areas and storage areas are located, creating unsafe conditions for users. In response to Council's concern, the department recommended the PAC impose Condition C21, in relation to CPTED measures to be installed in the basement.

On 12 October 2011, the Director-General approved a modification application (MP 10_0177 MOD 2) in relation to the Stage 1 Project Approval which involved the modification of Condition C19 – Ground water to allow for the installation of a permanent pumping system to ensure the basement is free of stormwater.

On 15 November 2011, the PAC approved a modification application (MP 10_0177 MOD 3) in relation to the Stage 1 Project Approval which involved the amendment to the basement car park plan including the deletion of a vehicular entry/exit point.

On 15 December 2011, the PAC approved a modification application (MP09_0162 MOD 1) in relation to Concept Plan Approval to delete an internal road, re-align bicycle path route, amend requirement for Accessible Units and amend car parking provision.

A modification application (MP 10_0177 MOD 4) has been lodged by the proponent in relation to the Stage 1 Project Approval for the amendment to Condition C6 to remove the requirement for works in Boondah Road and the deletion of Condition F15 relating to works required within Pittwater Road for right turn movements into Warriewood Road.

This application (MP 10_0177 MOD 4) is still under assessment.

2. PROPOSED MODIFICATION

The proposed modification seeks to delete Condition C21(ii) – CPTED measures within the basement car park, which pertains to the painting of the soffit of the basement parking area in a gloss white colour or equivalent.

The proponent's justification to delete the requirement is as follows:

- lighting will be provided in accordance with the BCA Conditions for artificial lighting, Part F4, as required by Condition C21(i), to ensure that crime prevention and safety measures are in place;
- major support columns within the basement will be painted yellow to provide added protection for residents;
- the basement area will be clearly signposted to ensure that movement around the basement is efficient and safe as required by Condition C21(iii);
- the basement area will be equipped with a 24 hour CCTV surveillance camera to ensure that crime prevention and safety is at an optimum, as required by Condition C21(iv);
- the soffit area of the basement is approximately 12,500m² in area, and will add unnecessary cost to the car park and future maintenance by the body corporate; and
- the painting of the soffit has no bearing on keeping the basement safe for residents and visitors. There is no nexus between resident safety and painting of a soffit.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *"revoking or varying a condition of the approval or imposing an additional condition of the approval"*.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify conditions imposed on the Project Application approval and therefore, approval to modify the application is required.

3.2 Environmental Assessment Requirements

No additional environmental assessment requirements were issued with respect to the proposed modification, as sufficient information has been provided to the department in order to consider the application and the issues raised remain consistent with the key assessment requirements addressed in the original DGRs.

3.3 Delegated Authority

The Minister has delegated his functions to determine Part 3A applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority.

The application is being referred to the PAC for determination as Pittwater Council has lodged a submission objecting to the proposal.

In accordance with Clause 3 of Schedule 6A of the Act, Section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the PAC may approve or disapprove the modification to the project under Section 75W of the Act.

4. CONSULTATION AND EXHIBITION

Under Section 75W of the Act, a request to modify an approval does not require public exhibition. However, under Section 75X(2)(f) of the Act, the Director-General is required to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the application to modify the approval was made publicly available on the department's website and was referred to Pittwater Council. Council's submission and the proponent's response are attached in **Appendix B** and discussed below.

Due to the minor nature of the proposed modification, the application was not exhibited by any other means.

4.1 Pittwater Council

Council objects to the proposed deletion of the requirement, contending that Condition C21(ii) should be retained as part of the package of CPTED measures to ensure the safety of users of the car park level.

4.2 Public Submissions

No submissions were received from the public.

4.3 Proponent's Response to Submission

In response to Council's submission, the proponent maintains the abovementioned justification for the proposed deletion of Condition C21(ii). (Refer to **Section 2** of this report).

5. ASSESSMENT

The proposal seeks to delete Condition C21(ii) – CPTED measures within the basement car park, which requires the soffit of the basement parking area to be painted in a gloss white colour or equivalent.

The proponent has argued that the painting of the soffit will not influence basement safety for users of the car park and will add unnecessary cost to the construction and future maintenance of the basement.

Council has objected to the proposal advising that Condition C21(ii) should be retained as part of the package of CPTED measures to ensure safety within the car park.

The department has examined the CPTED Guidelines and Pittwater DCP 21 – Part C under Section 79C of the Act in its assessment of the proposal and notes that both the CPTED Guidelines and Pittwater DCP 21 generally provide design principles including:

- clear sightlines between public and private places;
- effective lighting of public places; and
- landscaping that makes places attractive, but does not provide offenders with a place to hide or entrap victims.

Based on the above design principles, the department considers the painting of the soffit has relevance to basement safety and will improve the lighting of the basement, when implemented in conjunction with Conditions C21(i), C21(iii) and C21(iv). The department notes however the CPTED Guidelines and Pittwater DCP 21 do not refer to paint colour or the design of the soffit of a basement. It is considered that the requirement for the soffit to be painted in a gloss white colour or equivalent is therefore unnecessary and Condition C21(ii) should be modified to provide flexibility for the treatment of the soffit while incorporating CPTED measures within the basement.

The department deems suitable treatment of ceilings and walls within the basement car park to the satisfaction of the Certifying Authority will be adequate in providing effective lighting, lessening the reliance on artificial lighting and contributing to way-finding for users within the basement.

In order to provide certainty for the CPTED measures within the basement, the recommended modified condition will read as follows:

"C21 CPTED measures within the basement car park

To minimise the opportunity for crime and in accordance with CPTED principles, the development shall incorporate the following to the satisfaction of the Certifying Authority prior to issue of the relevant Construction Certificate:

- i. In order to maintain a safe level of visibility for pedestrians within the development, adequate lighting to AS1158 is to be provided to the basement car park, including entry/exits, lift and stair access, storage and bike racks and waste storage areas.

This lighting shall ensure consistency to avoid contrasts between areas of shadow/illumination and preferably be solar powered and with an automatic/timed switching mechanism, motion sensor or equivalent for energy efficiency. Such lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties or to drivers on surrounding streets. Car parking lighting system is to be controlled by sensors to save energy during periods of no occupant usage.

- ii. ~~The soffit of the basement parking area shall be painted a gloss white (or equivalent) in order to ensure good visibility, surveillance and less reliance on artificial lighting lux levels.~~ **Ceilings and walls within the basement car park are to be suitably treated to aid brightness, reduce the need for artificial lighting and contribute to way-finding.**
- iii. Adequate signage within the basement to identify facilities, including visitor and accessible parking spaces, entry/exit points, and direct movement within the development.
- iv. Provision of 24 hour security surveillance over the basement car park by means of monitored CCTV cameras and on-site management/security".

The department is satisfied the proposal, under the modified condition, will continue to adequately address the above design principles when considered in conjunction with Conditions C21(i), C21(iii) and C21(iv). In particular, effective lighting of the basement will be achieved, in accordance with Australian Lighting Standards AS1158 (**Condition C21(i)**) and 24 hour surveillance through means of Closed Circuit Television (CCTV) cameras and on-site management/security (**Condition C21(iv)**) will also be provided to maximise safety within the basement car park. The proposal as modified will therefore ensure the opportunity for crime within the basement is minimised.

On this basis, the department considers the proposal will remain consistent with the terms of the Project Approval (as modified) and will continue to provide adequate safety measures that comply with the CPTED Guidelines. The proposal is therefore acceptable subject to the modified condition.

6. CONCLUSION

The department is satisfied that this modification application falls within the scope of Section 75W of the Act.

The proposed modification does not change the original assessment as to the site's suitability for this development.

The proposed modification is generally consistent with the terms of the Project Approval (as modified) and is considered to be acceptable. It is therefore recommended that the application be approved subject to the modified condition.

7. RECOMMENDATION

It is recommended that the Planning Assessment Commission:

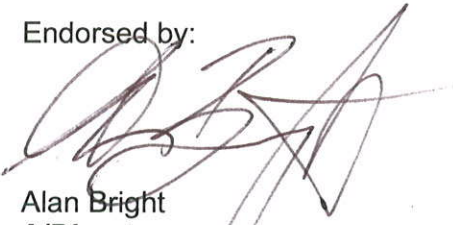
- (A) **Consider** the recommendations of this report;
- (B) **Approve** the modification, subject to conditions; under Section 75W of the *Environmental Planning and Assessment Act. 1979*, and
- (C) **Sign** the attached Instrument of Modification (**Appendix C**).

Prepared by:

Carmen Lau
Student Planner

Metropolitan & Regional Projects South

Endorsed by:



Alan Bright
A/Director
Metropolitan & Regional Projects South



Chris Wilson
Executive Director
Major Projects Assessment

22.12.11



Richard Pearson
Deputy Director-General
Development Assessment &
Systems Performance

23/12/11

APPENDIX A MODIFICATION REQUEST

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

Steve Evans, Director Environmental Planning & Community
8am to 5.30pm, Monday to Friday

18 November 2011

Mr Michael Woodland
Director, Metropolitan & Regional Projects South
DEPARTMENT OF PLANNING & INFRASTRUCTURE
GPO BOX 39
SYDNEY NSW 2001

(Your Ref: MP MP10_0177 MOD 5)

Dear Mr Woodland

**RE: APPLICATION FOR MODIFICATION OF MAJOR PROJECT APPROVAL UNDER
SECTION 75W, 14-18 BOONDAH ROAD, WARRIEWOOD
COUNCIL SUBMISSION TO MP10_0177 MOD 5**

I refer to your letter of 11 November 2011 advising Council of the modification application (MP10_0177 MOD 5) relevant to the above property and inviting Council to make a submission by 23 November 2011.

Council understands that the application seeks the deletion of Condition C21(ii) of the Project Approval.

This condition is part of the CPTED measures required for the basement car park, incorporated in the determination of MP10_0177 MOD 1. Council contends that Condition C21(ii) be retained as part of the package of CPTED measures that ensures safety of users of the car park level.

This letter serves as Council's submission to this subject modification application and obviates the need for Council officers to appear before the Planning Assessment Commission.

Council would appreciate confirmation of the Planning Assessment Commission's decision to this application.

You can contact me on (02) 9970 1133 if you wish to discuss any issues regarding this application.

Yours faithfully



Steve Evans

DIRECTOR, ENVIRONMENTAL PLANNING & COMMUNITY



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24 November 2011.

Mr Anthony Witherdin
A/Director, Urban Assessments
NSW Department of Planning & Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

Dear Anthony

RESPONSE TO COUNCIL SUBMISSION

**SECTION 75W APPLICATION TO MAJOR PROJECT APPLICATION NO. 10_0177
14 – 18 BOONDAH ROAD, WARRIEWOOD (LOT 20, DP 1080979) – AMENDMENT
TO CONDITION 21(ii) "CPTED MEASURES WITHIN THE BASEMENT CAR PARK"**

Thank you for sending us Pittwater Council's submission in relation to our request to delete the condition that requires the basement soffit to be painted in a high gloss finish.

Council's letter provides no justification to our request to delete condition 21(ii) of Major Project Approval, where as we have provided the following justification in the application.

1. Lighting will be provided in accordance with the BCA Conditions for artificial lighting, Part F.4 and as required by MP10_0177 MOD 1, Condition C21 c) i, to ensure that crime prevention and safety measures are in place;
2. Major support columns within the basement will be painted yellow to provide added protection for residents;
3. The basement area will be clearly signposted to ensure that movement around the basement is efficient and safe and as required by MP10_0177 MOD 1, Condition C21 c) iii; and
4. The basement area will be equipped with a 24 hour CCTV surveillance camera to ensure that crime prevention and safety is at an optimum, and as required by MP10_0177 MOD 1, Condition C21 c) iv.
5. The soffit area of the basement is approximately 12,500m² in area, and will add unnecessary cost to the car park and future maintenance by a body corporate.
6. The painting of the soffit has no bearing on keeping the basement safe for residents and visitors. There is no nexus between resident safety and painting of a soffit, which adds considerable unnecessary costs to the development.

By virtue of Council only providing a one page letter (where in every other instance they would generate at least 20 pages), and stating that they do not require attendance at the Planning and Assessment Commission infers that they are not serious about the condition. The very nature of Council submitting a 1 page objection, merely confirms their "obstructionistic" attitude towards Meriton seeking reasonable modifications or to completing the development of the site in a timely manner.

The reasons to delete the requirement for not painting the basement soffit are sound and reasonable. To this effect, we continue to seek Condition C21(ii) be removed from MP10_0177 MOD 1.

Should you have any queries please do not hesitate to contact me in the first instance.

Yours faithfully

MERITON APARTMENTS PTY LIMITED

A handwritten signature in black ink, appearing to read 'W. Gordon', written in a cursive style.

WALTER GORDON

Manager Planning and Development

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
